



Conducting early years inspections

Guidance for inspectors of registered early years settings required to deliver the Early Years Foundation Stage

This guidance includes the new and revised judgements introduced into early years inspections from September 2009. It is intended to assist inspectors when inspecting registered early years settings required to deliver the Early Years Foundation Stage. Early years settings can also use it to see how Ofsted will conduct inspections to help them carry out their self-evaluation. It should be used in conjunction with the guidance *Using the early years evaluation schedule*, which explains how inspectors should structure their evaluation of the early years provision and the judgements they should make.

Age group: Birth to 31 August following the child's fifth birthday

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Contents

What do we mean by...?	4
The purpose of this guidance	8
The approach to inspection	8
Particular considerations	11
The process of inspection	18
Gathering evidence	22
Communicating inspection findings	50
Concerns and complaints	52
Annex A. Making links	54
Annex B. Points to cover in initial discussion with provider or person-in-charge	61
Annex C. Required policies, procedures and records	64
Annex D. Prompts for feedback session	66
Annex E. The grading scale	68
Annex F. Raising meaningful actions	71

What do we mean by...?

Here is an explanation of some of the terms used in this booklet:

Childcare Register

The register of providers who are registered by Ofsted to care for children from birth to 17 years. The register has two parts:

- **the voluntary part**

Providers who are not eligible for compulsory registration may choose to register here. These are mainly people looking after children aged eight and over, or providing care in the child's home.

- **the compulsory part**

Providers must register if they care for one or more children from 1 September following their fifth birthdays until they reach their eighth birthdays for a period of more than two hours in any one day.

More information about registration on the Childcare Register is available on our website (www.ofsted.gov.uk) or by contacting your local family information service (www.familyinformationservices.org.uk/contactcis/england/index.htm).

Childcare providers on domestic premises

People providing care on domestic premises with at least three other people.

The difference between childminding and childcare on domestic premises is the number of people involved. If four or more people look after children at any time, they are providing childcare on domestic premises, not childminding.

Childcare providers on non-domestic premises

Registered providers of group childcare that were previously called day-care providers.

Childminder

A person who is registered to look after one or more children to whom they are not related on domestic premises for reward. Reward does not include reciprocal care arrangements between friends where there is no exchange of money or payment for things like electricity or food.

Childminders work with no more than two other childminders or assistants.

They:

- care for children on domestic premises that are not the home of one of the children, or
- care for children from more than two families wholly or mainly in the home of one of the children

and:

- must register to care for children under the age of eight
- can choose to register to care for older children.

Childminders care for at least one individual child for a total of more than two hours in any day. This is not necessarily a continuous period of time. For example if you provide care for the same child aged under eight for an hour before and an hour and a half after school then registration is due; however, if you provide care for one child aged under eight for an hour before school and provide care for a different child aged under eight for an hour and a half after school then registration is not required.

Compliance, investigation and enforcement teams

Ofsted has one national compliance, investigation and enforcement (CIE) team based in Nottingham. Its main role is to:

- provide advice and guidance to field staff on how and when to investigate non-compliance, or to take action to enforce compliance with statutory requirements and associated regulations
- manage cases in which we take statutory enforcement action (from issuing welfare requirement notices to bringing prosecutions) against childcare providers and children's social care establishments and agencies
- respond to concerns we receive about childcare providers and children's social care establishments and agencies, including where necessary working with child protection agencies in order to reduce the risk of harm to children and safeguard their welfare
- provide advice and guidance to colleagues on our safeguarding policy.

Department for Education (DfE)

The government department responsible for the Childcare Act 2006 and the regulations that underpin it, including the law that sets out our responsibilities regarding childcare and early education. The DfE is also responsible for the Early Years Foundation Stage, which underpins our inspections.

Early Years Foundation Stage

The statutory framework for the early education and care of children from birth to the 31 August following their fifth birthday. The Early Years Foundation Stage includes requirements for the provision of young children's welfare, learning and

development that all providers must meet, as well as good practice guidance. From September 2008 the Early Years Foundation Stage must be delivered by all schools and registered early years settings that make provision for children from birth to the 31 August following their fifth birthday, unless provision is exempt from registration.

The Early Years Foundation Stage website is www.standards.dcsf.gov.uk/eyfs.

Early years providers

Those who are registered on the Early Years Register to provide for children from birth to the 31 August following their fifth birthday; and maintained and independent schools that provide for children of that age.¹

Early years provision

The provision of learning, development and care for children from birth to the 31 August following their fifth birthday.

Early Years Register

Unless exempt, the following must be registered by us on the Early Years Register:

- maintained and independent schools directly responsible for provision for children from birth to the age of three²
- childcarers, such as childminders, day nurseries, pre-schools and private nursery schools, which provide for children from birth to the 31 August following their fifth birthday.

For more information about registration on the Early Years Register please look on our website (www.ofsted.gov.uk) or contact your local family information service (www.familyinformationservices.org.uk/contactcis/england/index.htm).

Early years settings

Childminding, day nurseries, playgroups, children's centres, maintained schools and those in the independent, private or voluntary sector which provide for children from birth to the 31 August following their fifth birthday.

Ofsted

We are an independent, non-ministerial government department, which is responsible for the inspection of a range of education and children's services, and for the inspection and regulation of registered early years and childcare provision. Our original full title was the Office for Standards in Education; in April 2007 this changed to the Office for Standards in Education, Children's Services and Skills, but we

¹ Schools providing for children of that age are not covered by the guidance in this framework.

² Schools that admit children who are three during the term in which they start school, known as 'rising threes', may treat those children as three-year-olds for the purposes of registration.

continue to be known as Ofsted. For more information about us visit our website (www.ofsted.gov.uk).

Registered person

An individual or organisation that is registered to provide childcare and/or early years provision.

Self-evaluation form

Helps early years providers to evaluate their provision and gives them a structure to record the outcomes. The completed form is discussed with the inspector, usually during the inspection. The self-evaluation form can be completed online; there is also a downloadable version to print off and complete by hand.

The purpose of this guidance

This guidance includes the new and revised judgements introduced into early years inspections from September 2009. It is intended to assist inspectors when inspecting registered early years settings required to deliver the Early Years Foundation Stage. Early years settings can also use it to see how Ofsted will conduct inspections to help them carry out their self-evaluation. It should be used in conjunction with the guidance *Using the early years evaluation schedule*, which explains how inspectors should structure their evaluation of the early years provision and the judgements they should make.³

Separate guidance on inspections of early years provision made by governing bodies of maintained schools⁴ and proprietors of independent schools⁵ is available on our website: www.ofsted.gov.uk.

The approach to inspection

The Early Years Foundation Stage as a basis of inspection of early years provision

The Early Years Foundation Stage came into force in September 2008. It is mandatory for all schools and early years providers registered by Ofsted on the Early Years Register – irrespective of size, type and funding – attended by young children from birth to the 31 August following their fifth birthday.

The basis of the inspection is an evaluation of the early years provision – in line with the principles, and general and specific requirements of the Early Years Foundation Stage – and how it helps children to achieve the five Every Child Matters outcomes.⁶ Annex A includes a table showing how the principles, requirements and outcomes link together.

The Early Years Foundation Stage framework is designed to be:

- fully inclusive of all children's needs, recognising the need to respond to differences in ethnicity, culture, religion or belief, home language, family background, special educational need, disability, gender or ability
- flexible enough for providers to deliver the Early Years Foundation Stage in ways that are compatible with the philosophies and beliefs of the setting. This means that, unless exempt⁷, all registered settings, irrespective of

³ *Using the early years evaluation schedule* (080124), Ofsted, 2009; www.ofsted.gov.uk/publications/080124.

⁴ Inspected under Section 5 (s5) of the Education Act 2005.

⁵ Inspected under Section 162a of the Education Act 2005.

⁶ Staying safe; being healthy; enjoying and achieving; making a positive contribution; and achieving social and economic well-being.

⁷ The exemption only applies to the learning and development requirements. There is no exemption from any of the welfare requirements.

any particular educational approach, must meet the learning and development requirements of the Early Years Foundation Stage.

Principles of inspection and the conduct of inspectors

The principles of inspection and the code of conduct for inspectors are laid out in the *Framework for the regulation of those on the Early Years Register and Childcare Register*.⁸ All inspectors should be conversant with these and apply them rigorously.

In order to carry out rigorous inspections of early years provision inspectors must have a thorough knowledge and understanding of all aspects of the Early Years Foundation Stage framework.

If, during the course of an inspection, a safeguarding issue comes to light, inspectors should follow procedures set out in *Ofsted safeguarding policy and procedures*.⁹

Good and clear relationships at the start of the inspection

Inspectors must uphold the highest professional standards in their work, and ensure that everyone they encounter during inspections is treated fairly and with respect, and benefits from the inspection.

When the inspector arrives at the setting they should introduce themselves and show the provider their ID passbook – not their ID card as this does not detail our powers to carry out the inspection or our phone number.

The inspector must allow the provider time to read the passbook and contact us if they wish to do so, to confirm the identity of the inspector/s.

It is important that the provider understands how the inspection will be carried out and the things it will cover. Take time to agree a timetable for activities, such as speaking to the registered provider if present, the manager, staff and parents. Be sensitive to issues within the setting. Discuss the daily routine so that important activities are not missed. Agree the time for feedback and who will be present. Although it would not be appropriate to have a large number of people present, the inspector should expect the registered person or nominated person, the day-to-day manager/s, a note taker and possibly a local authority development worker to be present as a minimum.

The code of conduct requires inspectors to:

- evaluate objectively, be impartial and inspect without fear or favour
- evaluate provision in line with frameworks, national standards or requirements

⁸ *Framework for the regulation of those on the Early Years Register and Childcare Register* (080024), Ofsted, 2009; www.ofsted.gov.uk/publications/080024.

⁹ *Ofsted safeguarding policy and procedures* (20070046), Ofsted, 2008; www.ofsted.gov.uk/publications/20070046.

- base all evaluations on clear and robust evidence
- have no connection with the provider which could undermine their objectivity
- report honestly and clearly, ensuring that judgements are fair and reliable
- carry out their work with integrity, treating all those they meet with courtesy, respect and sensitivity
- endeavour to minimise stress on those involved in the inspection
- act in the best interests and ensure the well-being of service users
- maintain purposeful and productive dialogue with those being inspected, and communicate judgements clearly and frankly
- respect the confidentiality of information, particularly about individuals and their work
- respond appropriately to reasonable requests
- take prompt and appropriate action on any safeguarding or health and safety issues.

Key features of inspection

The key features of an inspection of early years provision are:

- the quality of a group setting's leadership and management and the organisation of the childminding service, including the quality of its self-evaluation, how well the provider actively promotes equality and diversity, and inclusive practice which are central to the inspection
- a strong focus on how well the provision helps children to achieve the five outcomes¹⁰ set out in the Children Act 2004
- an onus on the provider to demonstrate the effectiveness of the early years provision, including how they maintain continuous improvement and their working partnerships
- little or no notice of inspection
- areas of learning are not individually inspected or reported on
- an objective and independent dialogue between the inspector and the provider or manager to find out the reasons for the effectiveness of the early years provision
- inspection strategies that respond to emerging issues.

¹⁰ A child's basic entitlement to stay safe, be healthy, enjoy and achieve, make a positive contribution and achieve **social and** economic well-being.

The time available for inspection

Inspections will, in most cases, involve one inspector being in:

- a group setting including childcare on domestic premises for the equivalent of no more than one day. On rare occasions more than one inspector may be needed to inspect large settings or those with complex provision. If the inspector thinks the size of the setting may warrant more than one inspector or extra time (s)he must discuss this with their team manager before any decision is made. If two inspectors are required they should liaise before the inspection to ensure they are familiar with the main inspection issues and the context of the setting
- a childminding setting or group settings that are smaller or operate for restricted hours for about half a day.

Little or no notice of inspection

Group providers will normally receive **no notice** of the inspection. For childminders or group providers that do not meet regularly, such as summer play schemes, Ofsted will call no more than five days ahead of the inspection to check that the provider is operating on the day of the inspection, that the childminder is at home and children are attending, or that the holiday play-scheme is operating that day. Inspectors should not give an actual day for inspection. They should suggest a 'window for inspection' ensuring that children will be present during these specific times.

Particular considerations

Children or settings exempt from the learning and development requirements¹¹

Parents and providers may seek exemption from some of the learning and development requirements. Parents, in partnership with the provider, can apply to the local authority to exempt individual children from the learning and development requirements.

There are two types of exemption available to providers.

- Existing providers who are temporarily unable to deliver the full learning and development requirements, for example because of damage to the setting from a fire or flooding, can apply to the Qualifications and Curriculum Development Agency for a time-limited exemption of up to 12 months.
- An exemption may be granted if a majority of parents or prospective parents agree with the applicant or provider that the established principles about learning and development for young children which govern their

¹¹ See *Statutory framework for the Early Years Foundation Stage*: page 41;
www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

practice conflict with elements of the Early Years Foundation Stage learning and development requirements. They must apply to the Qualifications and Curriculum Development Agency for an exemption either before registration is granted or at any time once the provision is registered on the Early Years Register.

The Childcare Act 2006 does not allow exemptions to be granted from the welfare requirements of the Early Years Foundation Stage, as these deal with fundamental issues of child safety.

Inspectors should ask the person-in-charge at the beginning of an inspection whether any exemptions have been granted. If an exemption has been granted inspectors should ask for proof of the exemption and record the details in their evidence for leadership and management including any reference number and what aspects of the learning and development requirements are exempt.¹²

Where individual children are exempt inspectors should carry out a full inspection. They should not record the names of any child/ren who are exempt, just the number of children. They should not draw evidence from a child or children in respect of the parts of the educational programmes and early learning goals from which they are exempt. For provider exemptions, inspectors should inspect and report on those aspects of the provision that are not exempt. In the 'description of the setting/childminding' section of the inspection report, inspectors should make clear the nature and extent of exemption at the time of inspection.

If a provider cannot show proof of exemption, inspectors should carry out a full inspection. They may consult the early years helpdesk, if necessary.

Separate guidance on inspecting those providers who hold an exemption, or who care for children whose parents have applied for an exemption is available.

¹² See *Exemptions from the learning and development requirements* (080175), Ofsted, 2008; www.ofsted.gov.uk/publications/080175.

Who can apply for exemption?	To whom?	On what grounds?	Period of exemption
Applicants for registration on the Early Years Register	Qualifications and Curriculum Development Agency	A majority of parents agree that an exemption is required because of a conflict between the established principles of practice and elements of the provision and the learning and development requirements.	Normally no more than one year from the date of application
Providers already registered on the Early Years Register	Qualifications and Curriculum Development Agency	Either: <ul style="list-style-type: none"> ■ a majority of parents agree that an exemption is required because of a conflict between the established principles of practice and elements of the learning and development requirements ■ the provider is temporarily unable to deliver the full learning and development requirements. 	A maximum of two years from the date of application A maximum of one year from the date of application
Parent in respect of an individual child	A parent's preferred registered childcare provider or prospective provider	The learning and development requirements, or some element of them, conflict with parent's religious or philosophical convictions.	A maximum of one year from the date of application

Childminders with no children on roll¹³

The Childcare Act 2006 grants us the power to cancel the registration of a childminder who has not provided childminding for a period of more than three years during which he or she was registered.¹⁴

Some childminders will not fulfil this criterion, but will have no children on roll when their inspection becomes due. This may be because childminders may choose to dip

¹³ See also *Guidance for inspecting childminders and childcare providers with no children on roll or no children present at the time of the inspections* (080173), Ofsted, 2009; www.ofsted.gov.uk/publications/080173.

¹⁴ Childcare Act 2006, section 68, www.opsi.gov.uk/ACTS/acts2006/ukpga_20060021_en_5#pt3-ch5-pb1-11g68.

in and out of childminding to suit their domestic arrangements, or those of the parents whose children who are cared for.

In any of these situations, if the inspector contacts a childminder who informs the inspector that they have no children on roll, the inspector must record the date and content of the conversation and arrange for one of the following letters to be sent:

- EYL410 at the first notification
- EYL411 at each subsequent notification
- EYL412 at the end of the three-year period in which the provider has no children on roll.

We will not carry out an inspection where there are no children on roll except where:

- the previous inspection judgement was inadequate; or
- we are in the last six months of the inspection cycle and only part way through the no children on roll process – the childminder will have cared for children within the last three years by 31 July 2012.

It is important that we record a full and complete audit trail of contact with the provider. This is so we have sufficient evidence that demonstrates a childminder has not cared for children for three years or more to support any action to cancel the registration at a later date.

This does not apply to childminders where there are children on roll, but they are not present on the day of inspection because, for example, they are ill or on holiday. These childminders will have a full inspection with quality grades and, whenever possible, inspections should be deferred until the children are present.

Settings only providing for children before or after school or during school holidays¹⁵

A number of childminders and out of school clubs only provide care for children at the beginning and/or end of the school day or in the school holidays. If registered, these settings must deliver the Early Years Foundation Stage. They are expected to work closely with others, including schools also providing the Early Years Foundation Stage for those children, to ensure they receive the full Early Years Foundation Stage. The provision in each setting should take into account and complement the range of Early Years Foundation Stage experiences children receive elsewhere. When making judgements, inspectors must distinguish between permanent wrap-around care where children attend regularly and more temporary arrangements such as holiday playschemes. Clearly where children attend on a very temporary basis the nature of the partnerships is much more limited.

¹⁵ See also *Inspecting early years provision made before or after school or during school holidays* (this title does not match the one in the link) (080167), Ofsted, 2008; www.ofsted.gov.uk/publications/080167 and *Regulating play-based provision* (090271), Ofsted, 2009; www.ofsted.gov.uk/publications/090271.

Inspectors should grade such provision using the four-point scale, basing their judgements on the nature and extent of what is provided rather than the full Early Years Foundation Stage. When reaching their judgements, inspectors should take into account how well the setting works with other providers to ensure that activities are complementary and promote continuity and progression for children. In the report section 'description of the setting/childminding', inspectors should make clear the nature and extent of the provision.

This applies where an early years setting only provides for children in the Early Years Foundation Stage before or after school or in school holidays – not where some children attend for longer. For example, it does not apply to provision made by a childminder who cares for a baby all day and for three- and four-year-olds between 12pm and 5pm who have attended nursery school in the morning.

The interpretation of 'before and after a normal school day' includes school holidays for children in the Early Years Foundation Stage who attend 10 sessions in school. Such children are not regarded as in the early years age group for the purposes of the adult to child ratio. This does not mean that the setting can treat them as over five for the purposes of delivering the Early Years Foundation Stage. Settings will still need to deliver the Early Years Foundation Stage for these children in line with the guidance for inspecting provision before or after school or during school holidays for children in the Early Years Foundation Stage. Where the setting is managed by the school directly the provision will not be registered on the Early Years Register, although it is still expected to meet the requirements of the Early Years Foundation Stage. Any such provision will be inspected as part of the school inspection.

Settings which primarily educate children in their home language

Childminders and group settings which primarily educate children in their home language must demonstrate to inspectors that they, and any assistants or staff, have a sufficient grasp of English to ensure the well-being of the children in their care. For example, it must be clear that providers would – in English – be able to summon emergency help where necessary, keep certain records required by the Early Years Foundation Stage and share them with inspectors, and read and understand instructions such as safety instructions and information on administering medication or on food allergies.

As part of the learning and development requirements, providers should also be able to demonstrate to inspectors that they support children to develop communication, language and literacy skills in English. Where this is not the case, inspectors should judge the overall provision as inadequate.

For additional guidance please refer to the Primary National Strategy document: *Supporting children learning English as an additional language*.

Settings on the Early Years and the Childcare Registers

Some providers may be registered on the Early Years Register **and** the compulsory and/or voluntary part of the Childcare Register. In these circumstances, at the inspection of the Early Years Register the inspectors should ask the provider to confirm (s)he is meeting the Childcare Register requirements. They should not report on the quality of the Childcare Register provision in the inspection report – only on its impact on children in the Early Years Foundation Stage, if this is evident. For example, if the disruptive behaviour of older children attending childcare provision unsettled children in the Early Years Foundation Stage. Inspectors should raise actions if it becomes evident through the inspection that there is non-compliance with the requirements of the Childcare Register

For further guidance, please see *Guidance on inspecting providers registered on both the Childcare and Early Years Registers*.¹⁶

Settings registered as childcare on domestic premises

The Childcare Act 2006 introduces this new category from 1 September 2008 to make a distinction between childminding and larger-scale provision operating from domestic premises. The law defines childcare on domestic premises as any form of care for a child including education or any other supervised activity for more than two hours¹⁷ where more than three people work together at any one time on domestic premises.

The Childcare Act 2006 does not regard early years or later years childminding on domestic premises as childminding if at any time the number of persons providing care or assisting with the provision of care exceeds three. In these circumstances it is **childcare on domestic premises**. Those caught by this arrangement must meet the requirements for childcare in the Early Years Foundation Stage and not childminding, although there are special arrangements to allow those transferring time to meet the qualification requirements. This extra time is not available to new applicants.

Providers can hold two separate registrations: as a childminder and as the registered provider of childcare on domestic premises. Before the introduction of the Childcare Act 2006 those working on domestic premises could be registered as childminders and work with other registered childminders and assistants in any combination and with no restrictions on numbers working together (subject to any local planning restrictions). This is no longer the case. A provider cannot act as a childminder and provide childcare in a domestic premises setting at the same time. If they are the registered provider for childcare on domestic premises and registered as a childminder they will have two separate registrations, pay two fees and have two inspections. However even though they cannot act as a childminder and provide

¹⁶ *Guidance on inspecting providers registered on both the Childcare and Early Years Registers* (080169), Ofsted, 2009; www.ofsted.gov.uk/publications/080169.

¹⁷ Settings may operate for less than two hours where this is immediately before or after a school day and still register on the voluntary part of the Childcare Register.

childcare on domestic premises at the same time Ofsted will, wherever possible, try to carry these inspections out at the same time.

For more information please see the factsheet *Childcare on domestic premises* and inspection guidance *Evaluating early years provision in settings providing childcare on domestic premises*.¹⁸

Educational and philosophical approaches

Settings do not have to work to a prescribed method of teaching in order for inspectors to reach a judgement that the provision is acceptable in helping children make progress in the Early Years Foundation Stage. The choice of teaching methods is a matter for providers to decide.

Inspectors may find they are required to inspect a setting that uses an approach that differs from those found in most settings. Some settings will be exempt from some aspects of the Early Years Foundation Stage, and inspectors should confirm this at the inspection by seeing the associated paperwork.

The inspectors' role is not to judge the setting's preferred methods, but to evaluate whether the setting gives sufficient attention to the welfare, learning and development requirements of the Early Years Foundation Stage, so that all children's individual needs are met.

When carrying out such an inspection, inspectors should state the type of educational or philosophical approach which the setting uses in the report section, 'description of the setting'. As in all inspections, if emerging issues are identified it is good practice to raise these during the course of the inspection. This will help to ensure that the provider is aware of aspects that require improvement and give them an opportunity to provide any additional evidence to inform the judgements.

Where a setting subscribes to a particular approach – for example, Playwork Principles,¹⁹ Steiner,²⁰ Montessori²¹ or High/Scope; or settings that adhere to a particular faith – the inspector carrying out the inspection must be familiar with this method and respect any cultural customs such as wearing appropriate clothing. Additional guidance is available for inspectors on the intranet.

Sustainable development

In March 2005 the government launched its sustainable development strategy called Securing the Future, which responded to increasing concerns over climate change,

¹⁸ *Childcare on domestic premises* (080142), Ofsted, 2008; www.ofsted.gov.uk/publications/080142 and *Evaluating early years provision in settings providing childcare on domestic premises* (080165), Ofsted, 2008; www.ofsted.gov.uk/publications/080165.

¹⁹ *Regulating play-based provision* (090271), Ofsted, 2009; www.ofsted.gov.uk/publications/090271.

²⁰ *Guide to the Early Years Foundation Stage in Steiner Waldorf Early Childhood Settings* available from <http://nationalstrategies.standards.dcsf.gov.uk>.

²¹ *Guide to the Early Years Foundation Stage in Montessori Settings* <http://nationalstrategies.standards.dcsf.gov.uk/node/153266>.

unsustainable consumption, loss of natural resources and quality of life in communities. This strategy set out five principles which form the basis of sustainability: living within environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

The government placed challenging targets on schools and children's centres to become sustainable organisations. While providers in the private, voluntary and independent sector will not have such targets unless they are in receipt of government funding, the principles that apply in the sustainable development strategy include consideration of children's well-being, a key feature of early years inspections. Inspectors should consider sustainability when gathering evidence for:

- outcomes, including the extent to which children have healthy lifestyles, develop responsible behaviour and care for each other and their environment
- the quality of provision, including the opportunities in the educational programme for children to improve their health and well-being through regular exercise and playing outdoors; and to participate in activities such as planting and growing
- leadership and management, including the awareness of sustainability in such areas as the provision of food and drink, the efficient and effective use of resources and the provider's engagement with parents and carers.

Post-registration inspections

Inspectors carry out inspections of newly registered childminding or childcare within seven months of registration unless there are no children on roll. These inspections do not differ from any other inspections of the Early Years Foundation Stage. They provide the first opportunity to evaluate the quality of the provision including the experiences children receive while attending the setting and how these experiences contribute towards the five Every Child Matters outcomes.

It is unlikely that providers will be able to demonstrate rigorous self-evaluation or a sustained capacity for improvement at a post-registration inspection, and this will have an impact on the grades awarded. Unless providers have previous experience in delivering the Early Years Foundation Stage, for example because they have another registered setting, it is most unlikely that they will be able to achieve an inspection grade of outstanding.

The process of inspection

Planning the inspection

Before the inspection, inspectors should:

- check whether the setting has submitted a **self-evaluation form**

- consider the provider and visit type and any pre-inspection information available such as the complaints history, comments for the next inspection and judgements from a completed self-evaluation form
- check **which register/s the provider is on** and decide from the available information if this is correct.²² If the inspector makes contact with the provider before the visit confirm with the provider that (s)he is correctly registered. If the registration is incorrect inspectors should make a note of the names of the registered provider, nominated person, and manager(s) where applicable and contact the National Business Unit for guidance. If there is any uncertainty about the registration the inspector should delay carrying out the inspection until the matter is resolved
- check if the provider has a certificate issued after 1 September 2008. If they have not, the conditions of registration will need to be updated and arrangements made to issue a new certificate after the inspection
- check the information about the individuals connected with the registration so that these can be cross-referenced with the information found during the inspection, including whether the setting has correctly notified us of changes
- check the **previous report** if applicable and note any points to follow up
- check if the provider is part of the National Provider Scheme and if so check the latest head office audit to see if policies and procedures comply with requirements
- check any other contextual information relating to the registration, including anything carried forward to check at the next visit, any outstanding actions or letters, or information required
- check whether any **complaints** have been made since the date of registration or the last inspection, including the number of complaints made and the number that required the provider or Ofsted to take action in order to ensure that the provision meets requirements: that is, the requirements of the Early Years Foundation Stage or, prior to 1 September 2008, the *National standards for under 8s daycare and childminding*. Although we no longer report on complaints in inspection reports, inspectors still need to know about the complaint history as part of planning for their inspections. The history of complaints will affect any action that Ofsted chooses to take as a result of any non-compliance found at inspection
- check the **description of the setting/childminding** section and update it, ready to share and agree with the provider

²² If a provider is registered on the Early Years Register, they can be registered on the Childcare Register if they comply with the requirements without completing an application form. Providers on the Childcare Register must complete an application form and apply to be registered on the Early Years Register.

- take a copy of *The next steps* leaflet to give to the provider in case provision is inadequate²³
- check they have a copy of *Are you ready for your inspection?* for reference, if necessary.²⁴

The self-evaluation form

The early years self-evaluation form allows a setting to summarise the outcomes of its process of self-evaluation, in line with key judgements in *Using the early years evaluation schedule*.²⁵

There is no legal requirement for settings to complete the early years self-evaluation form. However, it can provide an excellent basis for improvement and enables providers and/or managers to have greater involvement in the inspection.

Where registered early years provision is made directly by a school, the school may submit its self-evaluation on the school self-evaluation form. Inspectors can access this by asking the lead inspector for the school inspection which should take place at the same time.

Ahead of carrying out an inspection, inspectors should access either the early years self-evaluation form or the school self-evaluation form and record in their evidence for 'leadership and management' the date the self-evaluation form was submitted, by whom, and any other relevant information, such as the judgements and any identified strengths and areas for improvement. The self-evaluation form should be used to:

- plan the inspection by identifying issues to pursue; and/or by planning observations of areas of comparative strengths and weaknesses identified in the self-evaluation form
- focus discussions with providers and/or those in charge by asking them to point to practice and evidence which substantiate their judgements in the self-evaluation form and provide evidence of the quality of the leadership and management.

Inspectors should evaluate the setting's view of itself as expressed in the self-evaluation form and explore whether it is compatible with **evidence** available during the inspection. Evidence should include any evaluations made by a local authority about the quality of the early years provision including the local authority quality rating. This may be expressed as the level of support the local authority gives to the

²³ *Factsheet: Childcare – the next steps: when a provider is judged inadequate or is not complying with requirements* (080028), Ofsted, 2008; www.ofsted.gov.uk/publications/080028.

²⁴ *Are you ready for your inspection?* (080023), Ofsted, 2009; www.ofsted.gov.uk/publications/080023.

²⁵ *Using the early years evaluation schedule* (080124), Ofsted, 2009; www.ofsted.gov.uk/publications/080124.

provider.²⁶ Issues for inspection may arise from apparent inconsistencies between the self-evaluation form's conclusions and the evidence; from significant weaknesses highlighted in the self-evaluation form, or from important matters that the self-evaluation form seems to have omitted.

Inspectors should confirm with the provider the date of their last submitted form to ensure they are both referring to the same document, and discuss their analysis of the self-evaluation form and any initial hypotheses with:

- childminders during the pre-inspection phone call – if convenient – and/or at the start of the inspection visit
- group providers at the start of the inspection visit.

These initial discussions should give providers the opportunity to substantiate their evaluation in the self-evaluation form and point inspectors to where to find significant evidence to back it up. Inspectors should indicate to the provider what needs to be tested and ask him or her to provide the best way to find the necessary evidence.

When the evidence does not bear out what the self-evaluation form claims, the inspector should discuss this with the provider as soon as possible so that he or she has the opportunity to supply further evidence. The inspector should then test out this additional evidence during the inspection. If this further testing still does not support the setting's view, then inspectors have grounds, on the basis of the evidence collected, to come to their own conclusions.

The provider may not submit the self-evaluation form before the inspection, but hand it to the inspector at the start of the visit. In these circumstances the inspector should quickly skim the self-evaluation form for strengths and areas for improvement identified by the provider; then ask the provider to explain their evaluations and where evidence can be found to back them up.

The quality of the self-evaluation form should form part of a wider evaluation of the setting's self-evaluation processes. Please see pages 27–28 for guidance for evaluating the effectiveness of the setting's self-evaluation.

If there is no self-evaluation form then inspectors must still consider the systems the provider has in place for effective self-evaluation. If these are not evident this will have an impact on a number of inspection judgements, including ambition and prioritisation, the effectiveness of self-evaluation and the provider's capacity to improve.

²⁶ More information on this process is available in the *Early Years Quality Improvement Programme* (EYQISP); <http://publications.teachernet.gov.uk>.

Reporting on complaints

Inspectors do not report on complaints in the inspection report. However, inspectors must continue to follow up any actions or recommendations raised as a result of complaints or any other matter and report on progress. This will contribute to the judgement on the setting's ability to maintain continuous improvement. Inspectors must also consider the history of complaints where the provider or Ofsted took action in order to ensure that the provision met requirements since the previous inspection, and use these as a focus for areas to pursue during the inspection. Where there is a history of non-compliance, and further non-compliance is found during the inspection, inspectors should consider judging the provision as inadequate, category two.

Inspectors should not carry out an inspection where there is an open compliance, investigation and enforcement case, unless they have agreement from the compliance, investigation and enforcement team.

Gathering evidence

The evidence base

The evidence base consists of:

- the inspection evidence
- the inspection report
- the self-evaluation form submitted by the setting, where this has been completed. Remember that the Ofsted self-evaluation form is not mandatory. Settings may use other forms of quality assurance/self-evaluation documentation, which should be considered.

We retain the evidence base for the period of time set out in our file retention schedule; this is currently six months from the date of publication of the inspection report.

The range and balance of evidence

Inspectors should agree their plans for gathering evidence with providers at the start of the inspection.

In general, most time will be spent in gathering first-hand evidence by doing the following.

- **Observing activities and routines**
Inspectors should give emphasis to gathering first-hand evidence for the judgements in the evaluation schedule. They may ask providers to suggest activities for observation that show the range of children's progress reflected in their self-evaluation form.

■ **Discussions**

Inspectors should talk with children, any staff and others as appropriate. Much can be achieved through incidental conversations prompted by what is observed, although inspectors should take care not to interrupt the flow of activities.

■ **The views of parents/carers**

Wherever possible, inspectors will seek the views of parents, carers and others during the inspection, or prior to inspection in the case of some childminding inspections. As far as is manageable, inspectors should make arrangements to meet with any parents or carers of children attending who wish to speak with them. This will contribute to judgements on how the childminder or setting works in partnership with parents; the quality of provision for children's learning, development and welfare; and how the setting improves outcomes for children.

■ **The required policies, procedures and written records and how well they are implemented; and any other data or information available**

Inspectors should check a sample of policies and procedures, including the arrangements for safeguarding at every inspection. The required policies, procedures and written records are set out in Annex C.

As a minimum, inspectors should check and discuss the following.

- For childcare settings, the procedure for vetting staff and the record to demonstrate that the required Criminal Records Bureau checks have been carried out. Inspectors **must** check the Criminal Records Bureau disclosure number and date of issue of everyone working or living on the premises – this includes staff, students and assistants, except where these people were found to be suitable by Ofsted or the local authority prior to October 2005. For those making up the registered person and the manager the inspector must check that there is a Criminal Records Bureau check carried out and recorded by Ofsted, except where such people have been in post since before the advent of the Criminal Records Bureau.
- For childminders, that all those living and working on the premises aged 16 and over and any assistants have a Criminal Records Bureau check carried out and recorded by Ofsted, except where such people have been in post since before the advent of the Criminal Records Bureau.
- For all settings, the safeguarding children policy and procedure (to include the procedure to be followed in the event of an allegation being made against a member of staff). Childminders do not have to have this in writing.
- For group settings, that there is a designated practitioner to take lead responsibility for safeguarding children within the setting and that this practitioner has received appropriate training in this area.

- The policy for ensuring equality of opportunities including the admissions policy and adjustments for accessibility, and for supporting children with learning difficulties and disabilities. Childminders do not have to have this in writing.
- A small sample of documents to confirm the accuracy of the self-evaluation form, including any local authority notes or quality rating.
- A sample of any written plans and assessments to give an indication of what children are offered and the progress they are making.
- The implementation of any particular policy or procedure identified through their pre-inspection analysis or emerging issues during the inspection.
- For all settings whether the qualification and ratio requirements of the Early Years Foundation Stage are met.

Tracking children

In group settings, it will not be possible to investigate the welfare, learning and development of every child. Inspectors **must** undertake case tracking from a representative sample of children who attend. The number of children to track will depend on the number on roll; the composition of the group and how the early years provision is organised. As a minimum inspectors must track two children. This will increase where a setting has a wide age range of children; where children are in different rooms; or where there are distinct groups of children. Children for tracking might include:

- a boy and girl who have recently begun to attend
- a boy and girl who are soon to transfer to school
- children the setting identifies as having differing abilities
- a looked after child, if applicable
- a child with learning difficulties and/or disabilities
- a child who speaks English as an additional language
- a boy and/or girl from other groups that may have significance in a particular local context; for example, the children of travellers or asylum seekers.

Evidence must include notes relating to case tracking. Inspectors should:

- look at observation notes, assessment and planning for each child
- have discussions with the child's key person and consider information about children's abilities so that progress is seen over time
- look at the child's development records

- test the accuracy and rigour of the self-evaluation processes by tracking the impact of two or three significant strengths and weaknesses on the children who attend
- observe these children during the inspection to see:
 - what activities they take part in and the adult's role in these
 - the appropriateness of the activities for their age/stage of development
 - any learning they demonstrate and whether this is noted by the adults working with them
 - whether they initiate their own play
 - adult interventions and their appropriateness
 - solitary play and interactions with their peers
 - their care arrangements, including intimate care, taking account of the levels of privacy afforded to the child, supervision arrangements for the child and for the adult undertaking personal hygiene tasks.

Recording evidence

Inspections should be focused and efficient, but inspectors must also ensure that their judgements are valid and securely based upon sufficient evidence. It is essential that anyone reading an inspector's evidence clearly understands how judgements were reached, particularly if there are significant weaknesses in the provision, and where requirements are not being met. Inspectors should clearly record any evidence of non-compliance and include it in the report.

Under the Freedom of Information Act 2000, an inspector's evidence may be read by anyone making a request, so inspectors must be professional when recording evidence. They should avoid naming children or staff, and including innuendo or any comment which could be construed as subjective.

Inspectors may choose to record their evidence electronically or in handwritten notes, and must make their judgements by the end of the inspection. Inspectors should share the supplementary and key inspection judgements with the provider and/or manager during feedback.

In the main, evidence should be recorded at the setting and complete at the time judgements are fed back to the provider. Evidence notes can be tidied up after the inspection if this helps to clarify thoughts and write the report. But inspectors should not spend time after the inspection rewriting evidence unless they have been asked to do so for a particular reason.

Inspection evidence must be kept for a period of six months after the inspection or longer where:

- there is an action relating to safeguarding – keep until the next inspection
- there is monitoring of compliance or an ongoing compliance investigation linked to the inspection – keep until the next inspection or until the

compliance, investigation and enforcement team decide it can be destroyed

- there is a request by a senior Ofsted manager to keep the evidence for a specified time and purpose such as an appeal against enforcement action or an ongoing complaint.

Inspecting settings experiencing internal disputes

Inspectors may from time to time find themselves inspecting settings where there is an internal dispute, for example between a member of staff and the registered person. In these circumstances inspectors must at all times demonstrate that they are carrying out the inspection objectively and fairly. They should not get drawn into the dispute, or act in way that could be construed as favouring one of the parties involved in the dispute.

If it becomes apparent that a dispute is taking place, inspectors should do their best to ensure that they:

- understand the roles and responsibilities of those involved in the dispute; for example where one of those involved is a member of a committee or company that is the 'registered person'
- have a clear plan for discussions with the registered person, manager and/or other key members of staff and that they make sure that these discussions include all staff involved in the dispute
- explain the purpose and boundaries of these discussions
- avoid what could be perceived as private discussions with one party only; where possible, inspectors should gather evidence through group discussions
- agree arrangements for feedback to the registered person and other relevant people including, if appropriate, the parties involved in the dispute.

As with any inspections, inspectors should pursue evidence to test the setting's view of itself and those expressed by individual members of staff or of the body that comprise the registered person. Inspectors should make sure that their evidence, particularly any discussions with those involved in the dispute, is balanced and is recorded clearly and objectively.

If inspectors are in any doubt about how to proceed, they should seek advice from the early years helpdesk.

Guidance on gathering evidence and making judgements in the early years evaluation schedule

General guidance

The focus of the inspection is an evaluation of the quality of the provision: the experiences children receive while attending the setting and how these experiences contribute towards the five Every Child Matters outcomes. Inspectors should gather and record evidence of actual outcomes wherever possible.

Using the early years evaluation schedule sets out the key and supplementary judgements that inspectors must make and the major aspects they should consider when doing so.²⁷ Inspectors should use their professional judgement to weigh up all available evidence and reach judgements which fairly and reliably reflect the quality of the early years provision. When doing so, they should bear in mind the following guidance.

- The early years provision is unlikely to be effective overall if any of the key judgements are judged to be inadequate – **leadership and management, outcomes, or provision**.
- Where one or both of the key judgements on the quality of provision **and outcomes for children** are inadequate, inspectors should carefully consider how this affects their judgements for leadership and management, and overall effectiveness. It is very unlikely that the overall effectiveness judgement – or the leadership and management of the early years provision – will be satisfactory or better if there is inadequate provision for children's welfare and/or their learning and development, or if children have poor outcomes.
- If a **supplementary** judgement is inadequate, this is likely to have an impact on the key judgement to which it relates, resulting in one or more of them being judged as inadequate.

Inspectors are not expected to check that each requirement of the Early Years Foundation Stage is being met. However if, in the course of collecting evidence of the quality of the provision, inspectors find that a particular requirement is not being met they should take this into account when reaching judgements. In general, if there is evidence that:

- one or more of the general legal welfare or learning and development requirements are not being met then one or more of the key judgements are likely to be inadequate. This is most likely to impact on the leadership and management judgement.
- one or more of the specific welfare requirements are not being met, inspectors should consider the impact on:

²⁷ *Using the early years evaluation schedule* (080124), Ofsted, 2009; www.ofsted.gov.uk/publications/080124.

- the children
- the general legal requirement.

If, as a result, the inspector considers that the general legal requirement is being met, the provider has a history of compliance and the impact on children is not great, then the inspector may judge the relevant judgement to be 'satisfactory' or, on very rare occasions, 'good'. This is most likely to occur where a provider does not have the required written documentation, but practice is effective and the provider is not ignorant of the requirements. However, if the specific requirement is still not being met when the next inspection takes place, the relevant aspect of provision would be judged as inadequate. Inspectors need to take into account any previous non-compliance when making judgements where providers are not meeting legal requirements. A history of previous non-compliance in the same or different areas is likely to indicate either a lack of knowledge by the provider of the requirements or indicate a lack of willingness to comply with them. In these cases the inspector must find the provider inadequate.

The key and supplementary judgements

Inspectors should consider the following general points when gathering evidence and making the key and supplementary judgements required by the early years evaluation schedule. In addition inspectors can refer to the *Practice guidance for the Early Years Foundation Stage* and the principle into practice cards for examples of effective practice.²⁸

Key judgement: The effectiveness of leadership and management of the Early Years Foundation Stage

This is a critical judgement. An evaluation of the leadership and management is revealed by its **impact** on children's welfare and their progress towards the early learning goals. It must, therefore, make sense when set against all other judgements.

In coming to an overall view of the quality of leadership and management in group settings it is essential to take account of the effectiveness of all layers of management. Where possible, inspectors should discuss the issues from the self-evaluation form with the provider or nominated person to evaluate the registered person's contribution towards the quality of the provision.

Policies, procedures and records

Bear in mind that childcare providers are expected to have written copies of the required policies and procedures (see Annex C). Childminders are not required to have written copies, but are expected to ensure that any assistants are aware of the required policies and procedures, and should be able to define them for parents and others when requested. The most important thing about policies and procedures is

²⁸ www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

whether they are effective – do they do the job they are intended to do – as expressed by the relevant general requirement?

All providers, including childminders, are expected to keep certain written records in English as set out in Annex C.

Where the provider is part of the National Provider Scheme, policies and procedures are checked at an annual head office audit. Inspectors should check the latest audit report as part of the pre-inspection evidence. Where the audit was a full audit and indicated no compliance issues, inspectors need not check policies and procedures further at inspection, other than to check that the setting has a record of the enhanced CRB check for each staff member, the unique number of the check and the date it was obtained.

If providers ask at inspection whether they can keep documents off the premises, inspectors must ask them to write to Ofsted and receive a formal letter of agreement to keep them at an off-site location. Ofsted will agree this where:

- there is no secure storage at the setting and the documents can be made easily available at any visit or inspection
- the request is to keep them at the head office of a company in the National Provider Scheme that is subject to a head office audit.

The National Business Unit will decide whether to grant such requests, and update the provider's registration appropriately. When giving such permission, they will consider the arrangements for making records available at inspection. This includes records relating to the vetting of adults including a record of Criminal Records Bureau checks, their unique numbers and the date they were obtained. If providers cannot satisfy Ofsted that these can be made available whenever Ofsted wants to see them, then permission will be refused.

Other legislation

Providers must also comply with other legislation in addition to meeting the Early Years Foundation Stage requirements.²⁹ This includes compliance with the Safeguarding Vulnerable Groups Act 2006, and with legislation relating to employment, anti-discrimination, health and safety, and data collection – as well as a general duty of care. Inspectors are not expected to know details of, or to report on compliance with, other legislation, but should take account of any evident impact on the early years provision. Where there are indications of non-compliance with other legislation, inspectors should notify the compliance, investigation and enforcement team, who will decide what action should be taken.

²⁹ See *Statutory Framework for the Early Years Foundation Stage* page 41: paragraph 4.1; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Staff deployment: ratios

Providers must meet the specific requirements for ratios of adults to children set out in appendix 2 of the *Statutory Framework for the Early Years Foundation Stage*. The most important factors are that correct ratios are maintained overall by ensuring sufficient qualified staff are on the premises at all times – and that children are safe from harm and their needs are met. In group settings, inspectors should not be unduly prescriptive when interpreting ratios of staff working directly with the children in each area of the premises or at times such as lunch or breaks. If, for example, ratios in group rooms are not maintained at lunchtime, inspectors should consider the ages and needs of the children in each room, whether their needs are met, and whether other staff are on hand and could be summoned if an emergency occurred or a child became distressed.

The *Statutory Framework for the Early Years Foundation Stage* requires that there is at least one person on outings who holds a current paediatric first aid certificate. It does not specify the type or length of time of outings. We interpret this requirement to include any time where a child or children leave the premises in the care of a provider or staff member. It does not include school pick ups where children have yet to arrive at the premises, but would include such pick ups where, for example, a childminder took one child out from the premises to pick up another child from school. Where such an occasion is classed as an outing then at least one adult on that outing must hold a paediatric first aid certificate and there must be a risk assessment in place. For childminders, where an assistant is the person who makes the outing then the assistant must hold a first aid qualification.

The effectiveness of the setting's self-evaluation, including the steps taken to promote improvement

This judgement makes a significant contribution towards that for leadership and management, and for the setting's capacity for sustained improvement. The Ofsted self-evaluation form should be seen as a recorded summary of the outcomes of a setting's self-evaluation process. Its quality is a good guide to the quality of the whole process, but it is not an infallible one. Inspectors should also ask about the self-evaluation process as a whole; how it led to the writing of the self-evaluation form; and the extent to which others were involved in writing it. They should determine whether the self-evaluation form represents the setting's full view of itself, and whether the wider process of monitoring, self-evaluation, review and action planning is having an impact on the setting's improvement. Inspectors must consider the impact of the local authority on the wider process of monitoring and action planning including the level of support it gives or quality rating awarded (see below).

Remember that settings do not have to complete a self-evaluation form and that inspectors should be judging the quality of the setting's self-evaluation and its impact on improvement rather than the self-evaluation form. The self-evaluation form is only one tool in the self-evaluation process and providers may well have other established ways of reflecting on their practice and securing improvement within the setting. Where there is no self-evaluation form inspectors should determine the

setting's process of self-evaluation and any documents relating to this, and whether it is leading to improvement. When making judgements, inspectors should not penalise a setting for not completing a self-evaluation form if there are other effective methods of self-evaluation in place. As part of the self-evaluation process, the provider may, for example, participate in a quality assurance scheme. If early discussions reveal that there are no means of self-evaluation inspectors should probe the reasons for this, and the impact on leadership and management as a whole, during the inspection.

The effectiveness of the improvements made by the childminder or leaders and managers should be judged in terms of what is better for children, and the evidence that supports these improved outcomes. This includes improvements identified at registration or during the last inspection. Inspectors should follow up two or three major improvements to see how effectively they are implemented in terms of the difference they have made to children. Exploring the appropriateness of professional development arrangements is likely to give inspectors a good indication of how well those in charge know their settings and take steps to improve it. Inspectors should also take into account whether self-evaluation covers important aspects of sustainable development, particularly in relation to outcomes for children.

The role of local authorities

The Childcare Act 2006 places specific duties on local authorities to improve outcomes for all young children and reduce inequalities between them. Local authorities are expected to categorise settings through a transparent open process and use the information from this to offer universal, targeted and intensive support for settings to help them improve. Inspectors should expect a setting's self-evaluation to include reference to the input of the local authority early years team and whether it is categorised as high, medium or low quality by that team (sometimes this is expressed in terms of the setting receiving low, medium or high levels of support).³⁰

Regardless of inclusion in any self-evaluation form, inspectors should check what external evaluation takes place by the local authority early years team or childminder network coordinator, and how effectively advice from the local authority is acted on. As well as any categorisation, inspectors should ask to see any notes from the local authority early years team visits, and must use these as part of the inspection evidence.

Local authorities are increasingly using quality rating scales such as the Early Childhood Environmental Rating Scales (ECERS) with providers to judge the quality of provision. Inspectors should be familiar with this means of assessment.³¹

³⁰ Inspectors may wish to refer to the Early Years Quality Improvement Programme (EYQISP) document for more information on this process available from <http://publications.teachernet.gov.uk>.

³¹ www.fpg.unc.edu/~ecers/

While there may not be a direct correlation between the judgements of the local authority and those of the inspector, inspection evidence must clearly explain any difference between the two and inspection judgements must take into account the views of other professionals on the quality of the provision for young children.

The effectiveness of the setting's engagement with parents and carers

Initial information can be gained from the self-evaluation form, which asks the provider for the views of parents or carers about the provision. These can be backed up during the inspection, by first-hand observations of children, parents and staff at the beginning and end of a session/day, and by speaking with a small, but representative, sample of parents/carers. In particular, inspectors should find out how information about children's welfare, achievements and progress is shared and acted on.

Inspectors are not always able to speak with parents when conducting an inspection of a childminder. During the initial telephone conversation to a childminder, inspectors should highlight the importance of seeking views from parents as part of the inspection process. Where it is not possible to speak to parents during an inspection, inspectors may:

- invite the childminder to ask parents if they would like the opportunity to discuss their views with the inspector prior to inspection
- explain to the childminder that they will need to obtain permission from parents to pass contact telephone numbers to the inspector and agree a suitable time for the inspector to contact them
- agree a suitable time to ring the childminder back in order to obtain the relevant information
- make contact at the agreed time with the parents to seek their views about the service the childminder provides
- alternatively, invite the childminder to ask parents to telephone the National Business Unit with their views within the next two days.

Inspectors should record information obtained through discussion, as part of their evidence towards this judgement. Inspectors should not name parents or identify them by any other means. Contact with parents can only be made prior to inspection, and then only for childminding where notice is given of the inspection as inspectors must give their judgement at feedback directly following the inspection. Inspectors should take account, where appropriate, of children's views and how these are sought and acted on when making this judgement.

Inspectors are not expected to work additional hours or out of their usual working hours in order to gain the views of parents. Inspectors should point out to the childminder that this is one way of seeking parental views and that parents are welcome to provide written evidence at inspection or make contact with the National Business Unit as alternatives to ensure they are able to be involved in the inspection process.

When making the judgement, inspectors should take account of any ways the provider has of seeking parental views and acting on them; how providers and parents share information to meet children's needs; the quality of information made available to parents; and the opportunities parents have to contribute to their children's learning and development, to planning and assessments and to the setting's self-evaluation. Inspectors will need to take into account the history of complaints from parents when assessing the quality of the partnership.

The effectiveness of partnerships

Inspectors are not expected to interview representatives from external agencies or services that support children who attend the setting unless these people are present during the inspection. Instead they should find out from the provider or staff, and/or through a child's record, what support a child receives and track through how well that support is reflected in practice. For example, how effectively does the provider and any staff or assistants reinforce the support given to a child by a speech therapist from the community health service; or how effectively do they work with the children's services to meet the needs of a child who is looked after by the local authority?

Inspectors should check whether the setting works in partnership with other providers who deliver the Early Years Foundation Stage for a child or group of children by following the guidance in *Inspecting early years provision made before or after school or during school holidays*³² and in the factsheet *Regulating play-based provision*.³³

The Statutory Framework places a strong importance of partnership working in terms of the delivery of the Early Years Foundation Stage. Partnership working underpins successful delivery of the Early Years Foundation Stage in a number of different ways. Where children receive education and care in more than one setting, practitioners must ensure continuity and coherence by sharing relevant information with each other and parents. Patterns of children's attendance will be a key factor in how practitioners plan for each child. Close working between early years practitioners and parents is vital for the identification of children's learning needs and to ensure a quick response to any particular area of difficulty. Partnership working is crucial in terms of helping children to make a successful transition to the next stage of their care or learning.

Where settings have not yet established partnerships with other providers or professionals, inspectors will need to gather evidence through discussion. One example might be where children are not cared for by any other early years provider and there is no involvement from any external agencies or professionals.

Inspectors may come across situations where a provider may be actively trying to work in partnership with another early years provider or professional, although the other provider

³² *Inspecting early years provision made before or after school or during school holidays* (080167), Ofsted, 2008; www.ofsted.gov.uk/publications/080167.

³³ *Regulating play-based provision* (090271), Ofsted, 2009; www.ofsted.gov.uk/publications/090271).

is not willing to share information. In these situations inspectors will need to base their judgements on any evidence the provider can show in relation to how they have tried to establish and build effective working relationships. For example, a leader of an out of school club may be trying to liaise with the reception teacher from the local school that children attend. The leader may have evidence that she has tried to arrange meetings with the teacher or has written to the headteacher to try and establish communication. Where there is evidence available that the provider has tried to establish relationships, inspectors should take this into account when making judgements about partnerships. Although it may be unfair to judge partnerships as inadequate, such partnerships can never be judged as outstanding and are unlikely to be better than satisfactory, depending on the evidence available.

Inspectors should remember that this judgement is based on the extent to which the setting liaises with external agencies or services, and not just with other providers delivering the Early Years Foundation Stage for a child. It is possible that a setting may have evidence of effective partnership working with other agencies, such as health professionals, that will contribute towards this judgement, even if they are experiencing problems establishing close relationships with other early years providers.

The effectiveness of safeguarding

The two judgements on safeguarding under the leadership and management section and under outcomes for children should be taken into account when considering the impact of safeguarding on the effectiveness of leadership and management and the overall effectiveness of the setting in meeting the needs of children.

The judgement on safeguarding made under the leadership and management section must draw also on the staying safe outcome judgement. It will contribute to and may limit the grade for overall effectiveness in the following ways.

- If a provider is not meeting their legal duties, this should prompt a judgement of inadequate for safeguarding.
- Where a judgement of inadequate is awarded for either safeguarding or staying safe it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate.
- Where a judgement of satisfactory is awarded for safeguarding it is most unlikely that the overall effectiveness of the provider will be better than good.

A judgement on how well children are safeguarded should be based on evidence drawn from across all elements of the early years evaluation schedule.

A starting point for judging how well children are safeguarded is a discussion about the setting's safeguarding policy and procedures with the provider and, in the case of

group care, the named practitioner who has lead responsibility for safeguarding children if this is different from the provider.

Inspectors must check that the provider has robust systems in place for recruiting and checking the suitability of any staff/assistant he or she employs. Inspectors should make sure that an enhanced Criminal Records Bureau disclosure and associated identity check have been obtained for each member of staff/assistant. Where, rarely, recently recruited staff are in post and the outcome of checks are not yet known, inspectors should confirm that a Criminal Records Bureau disclosure and identity check was applied for at the point of employment. They should make sure that they are satisfied with the arrangements for supervision.

Inspectors must also check at each inspection whether the provider:

- is aware of their duty to refer people who they believe are unsuitable to work with children to the Independent Safeguarding Authority
- has disciplined, dismissed or is currently investigating any member of staff or assistant in relation to safeguarding children, or had such a person leave their employment before the end of an investigation
- if so, whether they referred that person to the Protection of Children Act (POCA) list prior to November 2009 and to the Independent Safeguarding Authority since that date.

The effectiveness with which the setting promotes equality and diversity

In all settings we make a single judgement on equality and diversity. Evidence contributing to the grade will be gathered when inspecting the five outcomes for children. The equality and diversity grade will contribute to and may limit the grade for *overall effectiveness* in the following ways:

- if a provider cannot demonstrate that they are working to narrow the achievement gap and to promote equality and diversity this should prompt a judgement of inadequate for equality and diversity
- where a judgement of inadequate is awarded for equality and diversity it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate
- where a judgement of satisfactory is awarded for equality and diversity it is most unlikely that the overall effectiveness of the provider will be better than good.

Equality and diversity in practice means:

- actively promoting positive relationships and respect for human rights
- understanding and respecting differences
- taking positive actions to tackle unlawful and unfair discrimination, inequality and unfairness

- adopting practices that make best use of the differing skills and talents of individuals
- focusing on improving outcomes that raise standards and improve lives.

Equality and diversity promote inclusion, participation and satisfaction of all. A primary aim is to achieve equal life chances and outcomes for all. Inspectors should draw evidence from across all aspects of provision to evaluate practice, taking account of the culture, background and gender of the children who attend, including the needs of those with learning difficulties and/or disabilities and those learning English as an additional language.

Meeting individual children's needs and the promotion of inclusive practice lies at the heart of the Early Years Foundation Stage. This judgement draws on evidence from across all elements of the early years evaluation schedule.³⁴

Inspectors should discuss the setting's equality of opportunities policy with the childminder or leaders and managers of the setting. They should consider its effectiveness in terms of the cultures, backgrounds, gender and particular needs of the children who attend. They should ensure the provider understands that everyday practices and attitudes, the environment and policies all need regular reviewing to check they do not disadvantage particular children. Inspectors will need to take into account the extent to which the provider makes reasonable adjustments to ensure that all children are included. Judgements should be informed by evidence from tracking individual children and groups of children, discussions with parents, the history of complaints and from the provider's self-evaluation.

Indicators of effective practice are that:

- children are encouraged to recognise their own unique qualities and the characteristics they share with others
- children are encouraged to develop a positive sense of identity
- anti-discriminatory practice is actively promoted so that all children and families feel included, safe and valued.

The quality of individual education plans for children with learning difficulties and/or disabilities, backed up by observations of the children engaging with adults and activities, will give a guide to whether particular needs are met. Inspectors should check that children with learning difficulties and/or disabilities are included, that aspirations for their achievement are relevant and appropriately challenging, and that they are given appropriate support to develop their skills and become increasingly independent.

Inspectors should evaluate whether children who are learning to understand and communicate in English are given the time and support they need. For example do

³⁴ The schedule is included in *Using the early years evaluation schedule* (080124), Ofsted, 2009; www.ofsted.gov.uk/publications/080124.

adults use children's home languages, where possible, and do they work well with parents and support workers to encourage children's developing use of English?

Inspectors should use the grade descriptors in the evaluation schedule under *How well does the provision promote equality and diversity* in order to help reach their judgements.

The effectiveness with which the setting deploys resources

This judgement must help bring about improvement by identifying strengths and areas for development regarding the efficient and effective use of resources. It contributes to the judgement for leadership and management.

This judgement is about assessing how well providers use their given resources for the benefit of children. It does not require looking at funding streams and levels of funding but focuses on how providers ensure they get the best use from the resources. The judgement should take into account the provider's contribution to sustainability by not wasting resources and making sure children treat resources with respect.

'Resources' includes staff, support, equipment and accommodation. This means gathering evidence during inspection from observation, discussions with adults working in the setting and from relevant documents. Leaders and/or managers should be aware or have some knowledge and understanding of the management of resources. Resources used ineffectively in one part of a provision are likely to deprive other areas of resources which could be put to better effect.

The effectiveness of leadership and management in embedding ambition and driving improvement

This judgement captures the effectiveness of leadership and management at all levels and is also a determining factor in making the judgement about *capacity to improve*.

The judgement is based on:

- sound evidence of a track record of sustained improvement
- a clear vision and identification of priorities that will sustain improvement and raise aspirations for all children
- effective self-evaluation processes which have a positive impact on children
- well-considered planning to include effective and ambitious use of targets to raise achievement for all children
- the ability to achieve and demonstrate positive outcomes for children.

There are clear links between ambition and prioritisation and self-evaluation. It is about leaders' and managers' ability to have a clear vision, know where the strengths of the setting lie and where improvements are needed, be able to identify realistic

but challenging steps for improvement and prioritise effectively within the remits of the available resources. These two judgements will contribute towards the judgement *capacity to improve*. Inspectors may find it helpful to refer to the grade descriptors for *capacity to improve* in the evaluation schedule in order to help reach the judgement. Newly-registered providers at their first inspection are unlikely to achieve a judgement of outstanding because they will not have a proven track record in sustained improvement.

Key judgement: the quality of the provision in the Early Years Foundation Stage

This key judgement includes an evaluation of how well children are helped to learn and develop and how effectively their welfare is promoted.

An evaluation of the provision for children's learning and development is determined by the knowledge, understanding, skills and attitudes they are helped to acquire, and their progress towards the early learning goals, during their time at the setting. Inspectors should draw evidence from across provision for all five Every Child Matters outcomes.

Children's progress towards the early learning goals

An evaluation of children's progress towards the early learning goals must be judged in relation to their starting points and identification of individual needs. Inspectors can gain an indication of these by examining the information that the setting gathers of what children know, can do and enjoy when they start to attend: that is, their starting point. Evidence of starting points can also be gained by talking with staff and parents about the level of children's social, communication and physical skills on entry; and by observing children new to the setting.

Inspectors can find out about children's progress towards the early learning goals at the setting by checking samples of their work and records, and any analysis the setting makes of the progress of individuals or groups of children over time. Inspectors will gain most information about what children know, understand and can do from direct observation and by talking with them.

Inspectors should focus on the big picture by looking across all areas of learning and development. Evidence can be gained of children's:

- **personal, emotional and social development**
by focusing on their behaviour, attitudes towards others and to their learning
- **communication, language and literacy development**
by talking with children to gauge how confidently they use language imaginatively and to organise their thinking; inspectors should observe whether children are developing the early skills of reading and writing through meaningful, practical experiences

- **problem solving, reasoning and numeracy**
by observing how they apply their knowledge of number and how they solve mathematical problems in everyday activities; and by listening to children's use of mathematical language
- **knowledge and understanding of the world**
by observing children's curiosity and interest in finding out about objects, materials and living things, where they live and each other's lives
- **physical development**
by observing whether children enjoy physical activity; develop skills of coordination, control, manipulation and movement; develop an understanding of changes that happen to their body as they take part; and what it means to be healthy
- **creative development**
by looking for evidence that children's creativity is valued; observe how children use their imaginations, express their own ideas and respond to what they see, hear, touch and feel.

Inspectors should include some evidence for each area of learning and development. It must be sufficient to support any weaknesses identified in any of those areas.

The quality of adults' interactions with children is clearly a major factor in the progress children make towards the early learning goals. Inspectors should observe whether adults' interactions are merely concerned with supervising children or whether they truly motivate children and engross them in activities. In particular, inspectors should evaluate whether adults' questions challenge children to think and find out more, by encouraging them to speculate and test ideas through trial and error.

Equally important are times where practitioners leave children alone to explore, make their own discoveries, solve problems and learn skills through self-initiated play. Inspectors should gauge how skilled practitioners are through observing times where adults choose to intervene and when they choose not to.

The educational programmes

The level and type of planning is not prescribed in the Early Years Foundation Stage. Childminders and childcare providers may use their preferred method of planning and decide how they share their plans with assistants, staff and parents.

If the setting is where the children receive their main early years experience, inspectors should be satisfied that, over time, practitioners cover each area in sufficient breadth and depth, and that communicating, literacy, numeracy and information and communication technology are promoted well. Where children receive their main early years experience elsewhere then inspectors should be satisfied that, taken together, children receive a balanced experience with adequate times for rest and relaxation, play and learning.

Although there is no requirement that plans must be recorded, inspectors should normally expect to see some written form of planning, even for childminding settings. The extent of planning including what is written will depend on: whether the setting is the sole provider of the Early Years Foundation Stage for children; whether any wrap around provision is attended regularly by children or on a temporary basis; the length of time children attend (for example if they are in the care of more than one adult throughout a day or week); the size of the setting; and the number of practitioners involved in provision of the Early Years Foundation Stage.

The Early Years Foundation Stage emphasises the importance of outdoor play. The *Practice guidance for the Early Years Foundation Stage* paragraph 1.16 states that:

‘All early years providers must have access to an outdoor play area which can benefit the children. If a setting does not have direct access to an outdoor play area, then they must make arrangements for daily opportunities for outdoor play in an appropriate nearby location.’

If a setting does not have direct access to an outdoor play area then inspectors should evaluate how well the provider fulfils the expectation for daily outdoor play in a way that is reasonable and practical given the facilities and location of the setting. Key judgements on outcomes and provision will be affected if reasonable attempts are not made to provide children with daily opportunities for outdoor play or to overcome the difficulties which could prevent this. Being outside in the fresh air allows children to have different experiences; failure to have regular outdoor play will result in some children making poorer progress.

Special Educational Needs Code of Practice

Inspectors should bear in mind that while all registered providers must meet the welfare requirements, only those who provide the free entitlement for three- and four-year-olds in receipt of Government funding must have regard to the Special Educational Needs Code of Practice.³⁵

Observation and assessment

Providers are expected to ensure that practitioners are observing and responding to children appropriately to help them progress towards the early learning goals.³⁶ The use made of information from observations and recorded in assessments is critical to the progress children make towards the early learning goals. The use of assessment should be evident in the quality of the educational programmes which should build learning progressively and clearly identify children’s individual needs.

³⁵ See specific legal requirement in *Statutory framework for the Early Years Foundation Stage*: page 25; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

³⁶ *Statutory framework for the Early Years Foundation Stage*: paragraph 2.19 page 25; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

The legal assessment requirement relates to children in their final year of the Early Years Foundation Stage. Providers must complete the Early Years Foundation Stage profile and comply with other associated arrangements in the final term of the year in which the child reaches the age of five and no later than 30 June. Inspectors should check whether any children who attend are in their final year of the Early Years Foundation Stage and, if so, that arrangements are in hand for the completion of the profile. Where children attend more than one setting during their final year of the Early Years Foundation Stage, the profile must be completed by the provider where the child spends the majority of time between 08.00 and 18.00. This could mean a childminder is expected to complete the profile where he or she cares for a child from 09.00 until 18.00 each day, apart from two and half hours in the afternoon when the child goes to nursery school.

The Early Years Foundation Stage does not require providers to keep written records of their observations or of children's progress, other than the completion of the profile at the end of the Early Years Foundation Stage. However, like planning, inspectors should normally expect to see some record of progress. If no records are available then there is a greater onus on the provider to convince the inspector of children's progress towards the early learning goals and how the provision and partnerships with parents and others have influenced this.

Observations should not just focus on individual children but on groups of children and how children in general access the learning environment. Observations should also feed into the setting's self-evaluation process by providing evidence of areas of the setting that are used well and those that aren't and the preferences of individual and groups of children to particular styles or areas of the setting. The quality of the observation process should contribute to judgements for the outcome of enjoying and achieving, self-evaluation and efficient and effective use of resources.

No exemptions from the welfare requirements

A provider cannot be exempt from meeting the welfare requirements. Therefore, even if aspects of the provision or an individual child or children are exempt from one or more of the learning and development requirements, inspectors should consider the overall provision for children's learning and development in the context of the welfare requirements. These require providers to 'plan and organise their systems to ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs'.³⁷ Specifically, providers are required to 'plan and provide experiences which are appropriate to each child's stage of development as they progress towards the early learning goals'. Where providers are exempt from some of the learning and development requirements, there must still be a planning process but plans and provision are unlikely to include the exempt aspects of the early learning goals.

³⁷ See *Statutory framework for the Early Years Foundation Stage*: page 20; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Key person

Inspectors should check that in childcare settings there is an effective key person system in place. To ensure that individual needs, including emotional needs, are being met, each child should be assigned a key person. The management of the key person system is critical to its success, particularly at ensuring that individual children are well supported at times when staff shifts change or during staff holidays/absence. This may be managed by providing a second key person so that when the main key person is away there is a familiar and trusted person who the child knows well.

Risk assessments

Inspectors should consider the suitability and safety of outdoor and indoor spaces, furniture, equipment and toys. This will be linked to the quality and effectiveness of risk assessments (see 'Leadership and management'). The Early Years Foundation Stage requires providers to conduct, regularly review, and maintain a record of a risk assessment which 'should cover anything with which a child may come into contact'. Providers must carry out a risk assessment for each specific type of outing with the children. For all regular outings such as school pick ups or visits to the local park, the inspector should expect to see an initial risk assessment and evidence that this is regularly reviewed. We would not expect providers to carry out a risk assessment every day for their school pick ups but would expect them to review risk assessments on about a termly basis, or more often when things change. All one-off outings should have a risk assessment completed before the outing takes place. The Early Years Foundation Stage does not prescribe a standard way of completing or recording a risk assessment, although the *Practice guidance for the Early Years Foundation Stage* includes some useful pointers on the sort of risks that might be covered.³⁸ At the beginning of the inspection inspectors may find it helpful to discuss the most up-to-date risk assessment with the provider. Discussions may reveal lines of enquiry inspectors may want to follow up during the inspection, to help them evaluate the quality of the leadership and management. Inspectors should refer to the outline guidance and grade descriptors in the evaluation schedule in order to help reach this judgement.

Key judgement: Outcomes for children in the Early Years Foundation Stage

Inspectors should evaluate the extent to which children enjoy their learning and achieve well; feel safe; learn to lead healthy lifestyles; make a positive contribution; and develop their skills for the future. Inspectors should draw evidence from across the provision for all five Every Child Matters outcomes of:

- staying safe
- being healthy
- enjoying and achieving

³⁸ Paragraph 3.18; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

- making a positive contribution
- developing skills that will contribute to their future social and economic well-being.

Inspectors make this judgement after making the judgements on the five outcomes.

Making individual outcome judgements

Inspectors need to gather evidence of each of the five Every Child Matters outcomes in order to reach individual judgements for each. This will then help inspectors to make the overall outcome judgement. The views, behaviour and attitudes of the children; and the interaction between adults and children are essential in informing inspection judgements on outcomes. Where the children present are very young and/or have significant learning difficulties, inspectors should take care to make sure they make a balanced judgement about outcomes by considering other evidence providers can supply about improved outcomes for children in their care. In particular inspectors should seek evidence from the quality of planning and assessment in improving outcomes.

It should always be possible to gather evidence of all outcomes. Evidence is likely to be gathered mainly through discussion:

- where there are no children present at the time of the inspection
- where there are no children on roll
- where there is no history of caring for children and any children present are at a stage of development where, for example, they are unable to demonstrate an understanding of healthy habits or of how to stay safe and the provider has no or insufficient records to show how their care enables improved outcomes. One example of this might be when the only child present is a very young baby who is sleeping during an inspection.

Additional prompts for inspectors to look for when making individual outcome judgements for very young babies are included as Annex A in the evaluation schedule. This could perhaps also be useful to consider when children present at inspection are unable to communicate, for example those with learning difficulties or English as an additional language. Inspectors will find it useful to refer to the *Practice guidance for the Early Years Foundation Stage* and use the 'Development matters' column in the areas of learning and development for ideas of the types of activities and responses we should be seeing for this age range in order to assess learning.

Key judgement: how well does the setting meet the needs of children in the Early Years Foundation Stage?

This is the overall judgement and should be the last one that is made, taking into consideration all other judgements.

Inspectors should not arrive at this judgement by an arithmetical calculation of all other judgements, but by weighing them up and assessing their relative significance. The central question is 'what is it like for a child here?'

The strength of leadership and management at all levels, or organisation of the childminding, especially the quality of the self-evaluation and its track record in securing improvement, will be the major factor in determining the overall effectiveness of the early years provision. Therefore, if the leadership and management of a group setting is judged to be inadequate, the early years provision will not be effective overall.

A judgement of satisfactory or better for the capacity to improve does not mean that the early years provision is effective overall, although it should be heading in that direction. This might occur in group settings where there has been a change of manager and/or staff who are making good improvements but their impact is not yet fully realised. Where improvements have not been made or have had little impact, and/or self-evaluation is weak, then there is unlikely to be sufficient capacity to improve, and provision is ineffective overall.

The capacity of the provision to maintain continuous improvement

The capacity to improve is determined by the extent to which the childminder or leaders and managers are able to make the necessary improvements. Inspectors should consider whether there is consistent capacity across all levels of the setting's leadership and management. An indicator of the capacity to improve is the quality of self-evaluation and of improvements since previous inspections.

In group settings, new plans or recent changes of leadership in group settings do not prove that there is capacity to achieve improvement without some evidence of impact. Good intentions and an aspirational outlook do not in themselves provide sufficient proof of the capacity to achieve improvement.

The capacity to improve judgement should be linked to the *overall effectiveness* judgement but may not always be the same. The capacity to improve will limit the overall effectiveness judgements in the following ways:

- where a judgement of inadequate is awarded for capacity to maintain continuous improvement it is most unlikely that the overall effectiveness of the provider will be better than satisfactory. It is likely that the overall judgement will be inadequate
- where a judgement of satisfactory is awarded for capacity to improve it is most unlikely that the overall effectiveness of the provider will be better than good.

This judgement is based on:

- sound evidence of a track record of sustained improvement

- a clear vision and articulation of appropriate priorities that will sustain improvement and raise aspirations for children
- effective self-evaluation processes which lead to demonstrate impact and which include appropriate use of the children, parents and others.

Inspectors should use the grade descriptors in the evaluation schedule under *The capacity of the provision to maintain continuous improvement* in order to help reach their judgements. Inspectors may also find it useful to refer to the descriptors under *The effectiveness of leadership and management in communicating ambition, prioritising and driving improvement* in order to support their thinking.

What steps need to be taken to improve provision further?

The early years evaluation schedule requires inspectors to identify the steps needed to improve the early years provision further.

Inspectors should **make recommendations** to improve the quality of the provision. They should be traceable to the principles, practice guidance and statutory guidance of the Early Years Foundation Stage.

Recommendations arise from aspects of provision judged to be inadequate: category 1 or better: they are **not** designed to ensure providers meet statutory requirements. Recommendations should be few in number and aimed at bringing about improvements which will have the greatest impact.

They must **always** be raised where the provision is satisfactory or better. At least one, but no more than two, recommendations must be raised where the early years provision has been judged as outstanding overall. Where there is a mix of outstanding and good judgements, they will arise from the good ones. They should be aimed at bringing about a very minor improvement to otherwise exemplary provision. In these circumstances, inspectors must still ensure that recommendations are securely based on the principles, practice guidance and statutory guidance of the Early Years Foundation Stage. For example, childminders should not be asked to keep written records where there is no requirement to do so.

Recommendations **must not** be raised to remedy weaknesses which have a significant impact on children, for example to address shortcomings in practice which are clearly hindering children's progress towards the early learning goals. Recommendations should not be raised where the overall provision is judged as inadequate: category 2.

Inspectors should **raise actions** to ensure statutory requirements of the Early Years Foundation Stage are being met. They must be traceable to the overarching or specific requirement(s) which are not being met. Normally there will be at least one action where any judgement in the inspection judgement grid is inadequate. The exceptions to this are: where it is sensible to combine an action; or where other enforcement action is being considered such as cancellation of registration. Following inspection these actions will be sent to providers in a 'notice to improve'. In the

inspection report, each action must clearly state the particular requirement(s) to which it applies.

Providers are expected to complete actions raised against provision judged as:

- **good or satisfactory overall** by the dates included in the notice to improve which they receive after the inspection. An action raised where provision is overall good or satisfactory will be for failure to meet some or all of a welfare requirement that has very little impact on the quality of the provision or outcomes for children. Inspectors should give a short timescale as it should be very easy to put right. If the setting needs time to put this right then it is likely that 'good' or 'satisfactory' is not the correct judgement
- **inadequate: category 1 overall** by the date(s) included in the inspection report and on the notice to improve which they receive after the inspection.

Actions and recommendations should not relate to legislative requirements outside Ofsted's remit, unless they are specifically referred to in the *Statutory Framework for the Early Years Foundation Stage*, for example, with regard to registration with the local authority Environmental Health Department. See Annex F.

Failure to meet conditions of registration or notify Ofsted of a significant event

Where a provider does not comply with a condition of registration and/or failed to notify us of a significant event they commit an offence, unless they have a reasonable excuse. Our enforcement tariff means that, as with all other failures to meet legal requirements, inspectors should take a proportionate approach taking into account the impact of the failure on children's well-being. We do not always have to take statutory action for failures to comply with conditions or to notify Ofsted of events but we must always bring any such failure and its seriousness to the provider's attention.

Where inspectors find such a failure during an inspection, they need to consider a course of action that enables us to apply the escalating tariff fairly, so that a provider is given an opportunity to put things right before we proceed to tribunal or court. Inspectors should treat any failures to meet conditions or notify found at inspection in the same way as they would if we found conditions were not met as a result of an investigation. A proportionate approach is to assess the impact of the breach, any excuse the provider has, and the provider's attitude and willingness to comply. For a first breach and/or where the impact is minor and/or where there was no deliberate intention to avoid compliance, we do not need to move to our statutory enforcement action. At inspection inspectors should assess the impact of the failure on the quality of the provision and the ability of the provider to meet the needs of all children when coming to their inspection judgement.

It is not appropriate for inspectors to issue a notice to improve. This is because it either tells the provider what the condition already says; or where there is a failure to notify tells the provider not to do it again. There is no remedial action a provider can take to bring about improvement.

Inspectors should include an explicit statement about the failure to meet the condition of registration or failure to notify Ofsted of something in the inspection report. This will act in the same way as a warning letter to the provider, and it will also ensure that the offence is brought to the attention of the provider and parents.

Examples of possible wording include the following.

- The provider/childminder is caring for more children than their conditions of registration allow. This is an offence unless the provider gives a reasonable excuse. On this occasion the provider did so and Ofsted does not intend to take further action.
- Where inadequate – The provider/childminder is caring for more children than their conditions of registration allow. This is an offence and Ofsted intends to take further enforcement action.
- Where satisfactory or better – The provider/childminder is allowing children to use the outside area which their conditions of registration do not permit. This is an offence unless the provider gives a reasonable excuse. Ofsted does not intend to prosecute on this occasion.
- The provider has committed an offence by failing to notify Ofsted of a change to the person who is managing the early years provision. This is a specific legal requirement in the Statutory Framework for the Early Years Foundation Stage. Ofsted does not intend to prosecute on this occasion.

Inspectors may take or adapt appropriate wording from page 30 in the *Statutory Framework for the Early Years Foundation Stage*.

Where inspectors judge the failure is not significant enough to move to enforcement action and/or the provider has a reasonable excuse, and there is no other failure that makes the provider inadequate, they must judge the provider as no better than satisfactory for the appropriate area. For most breaches of conditions or failure to notify, this will be in leadership and management as it reflects a failure by the provider to understand and comply with requirements and/or conditions placed on the registration. This will limit the **overall judgement** in most cases to no better than satisfactory.

Where inspectors judge a provider is inadequate category 1 because of something other than the failure to meet conditions of registration and/or notify Ofsted of a significant event, they must still not include the failure in any notice to improve but continue to reference it explicitly in the inspection report.

Where inspectors judge a provider is inadequate category 2 because they are considering recommending enforcement action for other failures, they may also wish

to recommend moving to a statutory step for breaches of conditions as well. At this point inspectors will need to seek advice from the compliance, investigation and enforcement team. They must still reference the failure explicitly in the inspection report. Where inspectors consider the impact of the failure to meet conditions of registration and/or notify us of a significant event is such that it makes the provider inadequate overall then they must always judge the provider as inadequate category 2; seek advice from the compliance, investigation and enforcement team about the next steps; and reference the failure explicitly in the inspection report.

Inspectors should make sure that the breach in conditions of registration and/or failure to notify Ofsted of a significant event is recorded on the registration record for that provider as well as in the inspection report. This will improve our audit trail if this is needed at a later stage.

Inadequate provision

If the inspector judges that, overall, the early years provision is ineffective (grade 4), they must decide the extent to which the provision is inadequate by placing the provision in one of two categories.

The grade descriptions for inadequate provision set out in *Using the early years evaluation schedule* mostly describe category 2 provision. Inspectors should decide the extent to which these descriptors match the early years provision they are evaluating.

The capacity to improve is a very significant factor in determining whether inadequate provision should be judged as category 2. Inspectors must make a category 2 judgement with the approval of their inspection team manager and with advice from the compliance, investigation and enforcement team who will agree the appropriate enforcement action. Category 2 judgements are most likely to be the case where:

- the provider has had previous actions relating to the inspector's concerns and has taken little or no action; or has allowed the situation to recur
- the provider's attitude and/or understanding is poor – the provider lacks the necessary knowledge to put things right; or does not see the importance of what they are being asked to do; or is reluctant or refuses to carry out the action
- there is a risk of harm to children.

If inspectors judge that the quality of provision falls into this category, before giving feedback they should:

- make sure that they have enough evidence recorded to support their judgement
- think about what enforcement action is most appropriate

- contact the compliance, investigation and enforcement team to tell them about their findings and recommended course of action; and ask for advice/confirmation of the proposal judgement and course of action
- give feedback to the provider following the guidance in the *Compliance, investigation and enforcement handbook* making sure that the provider knows what will happen next and the content of any notice to improve that Ofsted sends relating to the learning and development requirements³⁹
- explain to the provider that they will be notified of the enforcement action we intend to take by either an inspector or a member of the compliance, investigation and enforcement team within five days of the inspection.
- leave the provider a copy of *The next steps* leaflet.⁴⁰

Where provision is judged to be category 2, there are a number of possible courses of action open to Ofsted. The compliance, investigation and enforcement professional will hold a strategy meeting to decide on the most appropriate course of action in line with escalating tariff set out the *Compliance, investigation and enforcement handbook*.

In settings judged to be inadequate category 2 Ofsted will most commonly issue a welfare requirements notice to address the most significant weaknesses in the welfare requirements, but Ofsted is unable to take this action against the learning and development requirements. It is possible that some of the weaknesses in learning and development will link to the welfare requirements in 'Organisation', but this may not always be the case.

Therefore, when the inspector judges failure to meet learning and development requirements as the reason for the judgement of inadequate category 2 (s)he should also raise a notice to improve to give the provider actions to take to improve the support for children's learning and development provision.

Range/combination of inspection decisions

Judgement	Recommendations	Actions – notice to improve	Enforcement action Welfare requirements notice or other
Outstanding	Yes, always, but a maximum of two	Never	Never

³⁹ The compliance, inspection and enforcement handbook can be viewed at: [www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Compliance-investigation-and-enforcement-handbook/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Compliance-investigation-and-enforcement-handbook/(language)/eng-GB).

⁴⁰ *Factsheet: Childcare – the next steps: when a provider is judged inadequate or is not complying with requirements* (080028), Ofsted, 2008; www.ofsted.gov.uk/publications/080028.

Good	Yes, always, but few in number	Yes, very rarely and few in number. Only to address partial or very minor breaches of requirements where there is little impact on the children and practice is otherwise effective	Never
Satisfactory	Yes, always	Yes, possibly and few in number. Only to address partial or very minor breaches of requirements where there is little impact on the children and practice is otherwise sound	Never
Inadequate: category 1	Yes, possibly	Yes, always	Never
Inadequate: category 2	Never	Yes, possibly – to address learning and development weaknesses	Yes, always unless the weakness only relates to learning and development

Communicating inspection findings

Providing oral feedback to the setting

Inspectors should discuss emerging inspection findings with the registered provider, their nominee or the day-to-day manager throughout the inspection. This will give them time to reflect on what the evidence is indicating and allow them to provide more evidence if necessary. Final judgements should not come as a surprise.

Before leaving the setting, inspectors must feedback their final judgements and findings to either the childminder or the most appropriate person in group settings. This will normally be the registered provider, their nominee or the day-to-day manager.

Where the registered person is not present, inspectors should make it clear to the manager at the start of the inspection that the registered person or their nominee may also attend the feedback if it is possible for them to do so. But inspectors should not defer feedback to allow this to happen on another day.

Inspectors should make it clear during feedback that all inspection judgements are subject to a national quality assurance process. Some judgements may change as a result of moderation, although this is unlikely. Inspectors should show providers

(where this is captured electronically) or tell them the grades given for each of the key and supplementary judgements.

Inspectors should consult either their inspection team manager or the early years duty desk in the Quality Assurance team before giving feedback if they are in doubt about their judgements. They may wish to consult with the compliance, investigation and enforcement team before feedback if they judge the provision to be inadequate: category 1. Inspectors **must** consult the compliance, investigation and enforcement team if they judge the provision to be inadequate: category 2.

Only in rare circumstances should inspectors delay giving full feedback, for example if they need to consult with the compliance, investigation and enforcement team about enforcement action. Even in these circumstances inspectors must make clear to the provider the range of enforcement action Ofsted can take and the reasons for doing so.

Inspectors should allow sufficient time to gather their thoughts and be clear about what they are going to say. Their feedback notes must be consistent with their evidence and the content of the report. They should make sure they have enough evidence to support their judgements and examples to explain the strengths and weaknesses they have identified. This is particularly important where the setting appears to have significant weaknesses and is judged inadequate overall. Feedback in such cases must be sensitive, but firm.

Inspectors must give the grades of the four key judgements, referring to the other graded judgements as necessary. Inspectors should:

- give clear feedback on any grades that are different from the setting's self-evaluation form
- state clearly if any aspects of the setting have been judged inadequate and the reasons for this
- explain the areas for improvement and be prepared to discuss these with the setting so they understand what can or must be improved and the reasons why
- explain that judgements are provisional until confirmed through the quality assurance process.

Before the feedback inspectors should make sure that the provider knows that the meeting is not a time to challenge judgements or present more evidence. They should give the provider and/or person-in-charge an opportunity to confirm there is nothing else he or she wants the inspector to see or do before the meeting starts.

Inspectors might find the checklist in Annex D helpful when giving feedback. The order is flexible.

The inspection report

The report should be completed by the inspector immediately after the inspection. Although the format is prescribed, there are few rules about the content and wording of the report. The report should read fluidly and in a way which captures the uniqueness of the setting. The text, balance and tone of the report should reflect the quality of the provision for children in that particular setting and its leadership and management. The reasons for judgements should be clear to anyone reading the report. The inspector must ensure that all judgements are supported by evidence and that the way in which the inspection is conducted is beyond reproach. Inspection reports will be quality assured in line with Ofsted's procedures.

The inspector must inform the National Business Unit if a new certificate is required:

- for updating conditions to reflect the transfer to the new register/s.
- if the provider has not had a new certificate issued to reflect the transfer to the new register/s the inspector should create new conditions of registration to reflect the registers. This should include a condition for all providers on whether they are allowed to provide overnight care or not. These changes do not involve creating a notice of intention. Inspectors should discuss the change with the provider and explain that it does not involve the normal objection and appeal process. Inspectors should explain that the new certificate will replace the old certificate and deeming letter.
- because the inspector is recommending a change to conditions of registration either because the provider has requested a variation to their conditions of registration or the inspector judges it necessary. These changes require a notice of intention to give the provider the opportunity to object and appeal. This includes adding a condition for childminders relating to children aged four and five who are in full time education where relevant.⁴¹

The information sent to the National Business Unit must be clear about why the new certificate is required.

For further guidance, inspectors should refer to *Guidance on writing early years inspection reports*.⁴²

Concerns and complaints

Handling concerns and complaints during the inspection

If a setting raises a concern about the inspection while it is taking place, the inspector should consider it and assess its validity. If the concern is found to be

⁴¹ *Number and ages of children a childminder may care for* (080293), Ofsted, 2010; www.ofsted.gov.uk/publications/080293.

⁴² *Guidance on writing early years inspection reports* (080166), Ofsted, 2009; www.ofsted.gov.uk/publications/080166.

justified, the inspector should do what is possible to redress the problem, seeking advice from their inspection team manager where necessary. It is often easier to resolve issues on the spot and helps to avoid formal complaints later.

If the setting is dissatisfied with the inspector's response, or in any case wishes to take the complaint further, the inspector should ensure that the setting is fully informed of the procedures for making complaints.

Behaviour towards inspectors

There is an expectation that providers and staff will be courteous and helpful to inspectors with whom they have contact. We will not accept the abuse, harassment or intimidation of, or interference with, inspectors during the course of their legitimate work.

If an instance of such behaviour occurs during an inspection, the inspector should seek to resolve the issue informally with the registered person or day-to-day manager. If the issue cannot be resolved in this way, the inspector should contact their manager and consider whether they need to withdraw from the inspection.

Annex A. Making links

Inspection focus	General legal requirements	Early Years Foundation Stage: Principles and themes	Every Child Matters outcomes ⁴³
<p>How well does the setting meet the needs of children in the Early Years Foundation Stage?</p> <p>The effectiveness with which the setting promotes equality and diversity</p> <p>The capacity of the provision to maintain continuous improvement</p>	<p>All</p> <p>Note specific legal requirements:</p> <p>W1.1: Equality of opportunities</p> <p>All providers must have and implement an effective policy, ensuring equality of opportunities and supporting children with learning difficulties and disabilities.</p> <p>W4: Organisation</p> <p>Providers must promote equality of opportunity and anti-discriminatory practice and ensure that every child is included and not disadvantaged because of ethnicity, culture or religion, home language, family background, learning difficulties, gender or ability.</p>	<p>All</p> <p>specifically:</p> <p>A unique child</p> <p>Every child is a competent learner from birth who can be resilient, capable, confident and self-assured.</p> <p>1.1 Child development</p> <p>Babies and children develop in individual ways and at varying rates. Every area of development – physical, cognitive, linguistic, spiritual, social and emotional – is equally important.</p> <p>1.2 Inclusive practice</p> <p>The diversity of individuals and communities is valued and respected. No child or family is discriminated against.</p>	<p>All</p>

⁴³ Be healthy; stay safe; enjoy and achieve; make a positive contribution; achieve social and economic well-being.

Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
<p>The effectiveness of leadership and management of the Early Years Foundation Stage</p> <p>The effectiveness of the setting's self-evaluation, including the steps taken to promote</p>	<p>All</p> <p>Note general welfare requirements:</p> <p>(i) Policies, procedures and records:</p> <p>W5: Documentation</p> <p>(ii) Safeguarding</p> <p>W1: Safeguarding and promoting children's welfare</p> <p>Safeguarding</p> <p>Information and complaints</p> <p>Premises and security</p> <p>Equality of opportunities</p> <p>W2: Suitable people</p>	<p>All</p> <p>Specifically:</p>	<p>All</p>
		<p>A unique child</p> <p>Every child is a competent learner from birth who can be resilient, capable, confident and self-assured.</p> <p>1.3 Keeping safe</p> <p>Young children are vulnerable. They develop resilience when their physical and psychological well-being is protected by adults.</p>	
		<p>Positive relationships</p> <p>Children learn to be strong and independent from a base of loving and secure relationships with parents and/or a key person.</p> <p>2.2. Parents as partners</p> <p>Parents are children's first and most enduring educators. When parents and practitioners work together in early years settings, the results have a positive impact on children's development and learning.</p>	

<p>improvement</p> <p>The effectiveness of the setting's engagement with parents and</p> <p>The effectiveness of partnerships</p> <p>The effectiveness of safeguarding</p>	<p>Suitable people</p> <p>Appropriate staff qualifications, training, skills and knowledge</p> <p>Staffing arrangements</p> <p>W3: Suitable premises, environment and equipment</p>	<p>Enabling environment</p> <p>The environment plays a key role in supporting and extending children's development and learning.</p> <p>3.4 The wider context</p> <p>Working in partnership with other settings, other professionals and with individuals and groups in the community supports children's development and progress towards the outcomes of Every Child Matters: being healthy, staying safe, enjoying and achieving, making a positive contributions and economic well-being.</p>	
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Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
<p>The quality of the provision in the Early Years Foundation Stage</p> <p>Outcomes for children in the Early Years Foundation Stage</p>	<p>Learning and development</p> <p>LD 1: The early learning goals</p> <p>The knowledge, skills and understanding which young children should have acquired by the end of the academic year in which they reach age five (young children).</p> <p>LD 2: The educational programmes</p> <p>The matters, skills and processes which are required to be taught to young children.</p> <p>LD 3: The assessment arrangements</p> <p>The arrangements for assessing young children to ascertain their achievements.</p> <p>Welfare</p> <p>W4: Organisation</p> <p>Providers must plan and organise their systems to</p>	<p>Enabling environment</p> <p>The environment plays a key role in supporting and extending children's development and learning.</p> <p>3.1 Observation, assessment and planning</p> <p>Babies and young children are individuals first, each with a unique profile of abilities. Schedules and routines should flow with the child's needs. All planning starts with observing children in order to understand and consider their current interests, development and learning.</p> <p>3.2 Support every child</p> <p>The environment supports every child's learning through planned experiences and activities that are challenging, but achievable.</p> <p>3.3 The learning environment</p> <p>A rich and varied environment supports children's learning and development. It gives them the confidence to explore and learn in secure and safe, yet challenging, indoor and outdoor spaces.</p>	<p>Enjoy and Achieve and how children learn to:</p> <p>be healthy</p> <p>stay safe</p> <p>make a positive contribution</p> <p>develop skills for the future</p>
		<p>Learning and development</p> <p>Children develop and learn in different ways and at different rates; all areas of learning and development are equally important and inter-connected.</p> <p>4.1 Play and exploration</p> <p>Children's play reflects their wider ranging and varied interests and preoccupations. In their play children learn at their highest level. Play with peers is important for children's development.</p> <p>4.2 Active learning</p> <p>Children learn best through physical and mental challenges. Active learning involves other people, objects, ideas and events that engage and involve</p>	

	<p>ensure that every child receives an enjoyable and challenging learning and development experience that is tailored to meet their individual needs.</p>	<p>children for sustained periods.</p> <p>4.3 Creativity and critical thinking</p> <p>When children have opportunities to play with ideas in different situations and a variety of resources, they discover connections and come to new and better understandings and ways of doing things. Adult support in this process enhances their ability to think critically and ask questions.</p> <p>4.4 Areas of learning and development</p> <p>The Early Years Foundation Stage is made up of six areas of learning and development – all are connected to one another and are equally important. All areas of learning and development are underpinned by the principles of the Early Years Foundation Stage</p>	
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Inspection focus	General legal requirements	Principles and themes	Every Child Matters outcomes
The quality of provision in the Early Years Foundation Stage Outcomes for children in the Early Years Foundation Stage	W1: Safeguarding and promoting children's welfare W1.3: Children's behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs. W1: Safeguarding and promoting children's welfare W1.2: The provider must promote the good health of the children, take necessary steps to prevent the spread of infection, and take appropriate action when they are ill. W1: Safeguarding and promoting children's welfare W1.1: The provider must take necessary steps to safeguard	Positive relationships Children learn to be strong and independent from a base of loving and secure relationships with parents and/or a key person. 2.1 Respecting each other Each interaction is based on caring professional relationships and respectful acknowledgement of the feelings of children and their families. 2.3 Supporting learning Warm, trusting relationships with knowledgeable adults support children's learning more effectively than any amount of resources. 2.4 Key person A key person has special responsibility for working with a small number of children, giving them the reassurance to feel safe and cared for and building relationships with their parents.	Enjoy and achieve including how children learn to: be healthy stay safe make a positive contribution develop skills for the future
		A unique child Every child is a competent learner from birth who can be resilient, capable, confident and self-assured. 1.4 Health and well-being Children's health is an integral part of their emotional, mental, social, environmental and spiritual well-being and is supported by attention to these aspects.	Being healthy

	<p>and promote the welfare of children in the setting</p> <p>W 3: Suitable premises, environment and equipment outdoor and indoor spaces, furniture, equipment and toys, must be safe and suitable for their purpose.</p>	<p>1.3 Keeping safe</p> <p>Young children are vulnerable. They develop resilience when their physical and psychological well-being is protected by adults.</p>	<p>Staying safe</p>
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Annex B. Points to cover in initial discussion with provider or person-in-charge

Changes since the last inspection

Have there been any major changes since the last inspection?

Are the details about the provider correct, including any change of the nominated person?

Is the provider registered on the correct register/s? (see glossary for definitions)

- Early Years Register
- Childminding
- Childcare on non domestic premises
- Childcare on domestic premises
- Childcare register
- Part A compulsory part
- Part B voluntary part

If inspectors believe the provider is not on the correct register/s they should explain this to the provider and take guidance from the early years helpdesk on the action needed to resolve this.

The self-evaluation form⁴⁴

If a self-evaluation form is available on the system, confirm with the provider the date of the self-evaluation form used for the inspection. If there is no self-evaluation form on the system, ask the provider what evidence they can provide about self-evaluation during the inspection.

Questions inspectors might ask include:

Can you tell me how you decided what should be in the self-evaluation form? Who was involved in completing it? Can you tell me why you have graded the provision as you have in the self-evaluation form? What activities/records/documents will show me the quality you have indicated in the self-evaluation form?

Improvement

Questions inspectors might ask include:

What improvements have been made recently/since the last inspection? What difference have these made to the children's welfare, learning and development?

⁴⁴ Whether submitted or given at inspection.

What improvements are you planning? Why did you decide to make these improvements? What difference do you expect have these to make to the children's welfare, learning and development?

Funding

Questions inspectors might ask include:

Are you/the setting in receipt of government funding for the provision of free early education for three- and four-year olds?

Who is the special educational need coordinator (group settings)?

Do you have an exemption relating to the learning and development requirements? If yes, is it in relation to the provision or for an individual child?

What is the extent of the exemption?

The children

Questions inspectors might ask include:

Which children:

- are learning English as an additional language
- have special educational needs
- are new to the setting
- which child(ren) is/are exempt (if applicable)
- are about to transfer to school?

How do you find out what a child knows/can do when s/he first starts to attend?

What progress do children make while they are with you/at the setting? Can you show me evidence of this?

Group settings

Questions inspectors might ask include:

How are the children organised, for example altogether/in group rooms?

How are staff organised or deployed?

General

Questions inspectors might ask include:

Where are the following documents? (See Annex C below.)

Are there any special factors to take into account during the inspection, for example settling in new children/new staff/building work?

How do you make your inspection report available and ensure all parents and carers receive a copy?⁴⁵ This also applies to monitoring letters.

⁴⁵ *Statutory framework for the Early Years Foundation Stage*, specific legal requirement; page 40; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

Annex C. Required policies, procedures and records

The Early Years Foundation Stage requires all providers must keep the following **written** records:

- a record of complaints received from parents, and their outcomes
- a record of all medicines administered to children
- a record of accidents and first aid treatment while in care of the provider
- a record to demonstrate to Ofsted that the required Criminal Records Bureau checks have been carried out, including the number and date of issue of the enhanced Criminal Records Bureau disclosure, in respect of all people who work directly with children or who are likely to have unsupervised access to them
- a record of the following information for each child in their care:⁴⁶
 - full name
 - date of birth
 - the name and address of every parent and carer who is known to the provider
 - which of these parents or carers the child normally lives with
 - emergency contact details of the parents and carers
- a record of the name, home address and telephone number of the provider and any other person living or employed on the premises
- a record of the name, home address and telephone number of anyone who will regularly be in unsupervised contact with the children attending the early years provision
- a daily record of the names of the children looked after on the premises, their hours of attendance and the name of each child's key person
- a record of risk assessment, clearly stating when it was carried out, by whom, date of review and any action taken following a review or incident. A risk assessment must be carried out for each specific outing with the children.

All providers are expected to implement the following policies and procedures; and all, **except childminders**,⁴⁷ are expected to have written copies of those policies and procedures:

⁴⁶ Providers must also record and submit certain information to their local authority about individual children receiving the free entitlement to early years provision. See the *Statutory framework for the Early Years Foundation Stage*; www.standards.dfes.gov.uk/eyfs/site/resource/pdfs.htm.

⁴⁷ Unless the childminder is registered on the compulsory and/or voluntary part of the Childcare Register, then the policies and procedures should be in writing.

- a safeguarding children policy and procedure (to include the procedure to be followed in the event of an allegation being made against a member of staff)
- a policy for ensuring equality of opportunities and for supporting children with learning difficulties and disabilities
- a policy for administering medicines, including effective management systems to support individual children with medical needs
- a behaviour management policy
- a procedure for dealing with concerns and complaints from parents
- a procedure to be followed in the event of a parent failing to collect a child at the appointed time
- a procedure to be followed in the event of a child going missing
- a procedure for the emergency evacuation of the premises.

Annex D. Prompts for feedback session

Thank the provider for their cooperation.

Explain the purpose, structure and confidentiality of the feedback.

Invite note taking.

Agree details of the paragraph on '**description of the setting/childminding**', including any learning and development exemption that is in place or applied for.

Advise the provider that all inspection judgements stand at the time of inspection but that they are subject to a national quality assurance process. As a result, some judgements may change, although this is unlikely.

Give the **overall effectiveness** judgement, making reference to:

- the capacity to maintain continuous improvement.

Give the key judgement for leadership and management.

Summarise strengths and weaknesses, including those of:

- the setting's self-evaluation and the steps taken to promote improvement
- the arrangements for engaging with parents and carers
- the partnership with others
- the arrangements for safeguarding children
- the extent to which the provision promotes equality and diversity
- the use of resources
- the effectiveness of embedding ambition and driving improvement

Give key judgements for the quality of the provision for children in the Early Years Foundation Stage and outcomes for children in the Early Years Foundation Stage

Summarise how effectively children are helped to learn and develop and how effectively their welfare is promoted.

Summarise strengths and weaknesses of how the provision helps children:

- stay safe
- be healthy
- enjoy and achieve
- make a positive contribution
- develop skills for the future.

If the provision is **inadequate** overall:

- make clear whether it is category 1 or 2
- make clear the possible courses of action Ofsted can take if category 2
- give provider a copy of *The next steps* leaflet.

Give any relevant:

- recommendations
- actions
- conditions to be varied or imposed.

Where possible, tell the provider the grades for all of the key and supplementary judgements. Explain that the provider will receive a copy of the report within 10-15 days of the inspection. If there are any factual inaccuracies the provider must respond within 24 hours of receiving the letter. They can do this by telephoning, emailing or writing using the details at the top of the letter. Ofsted aims to publish the report on the internet within 20 working days from the date of the inspection. Ofsted will include any changes to factual accuracy that the provider tells Ofsted about providing these are received in time, otherwise Ofsted will publish the report as it stands.

Share the 'trigger points' sheet with the provider to explain the timing of the next inspection.

If relevant:

- explain to the provider that if they have not had a new certificate to reflect the new register/s we will send them one with the report. This replaces the old certificate and deeming letter.
- explain that if the provider has requested a variation to their condition of registration, or we have decided to impose, vary or remove a condition, the provider will receive a notice of intention and a new certificate.

Any clarification needed?

Annex E. The grading scale

The table below shows the four-point grading scale which inspectors should use to make judgements, together with a summary of general indicators of provision in early years settings for each grade and the implication for the next inspection.

Grade	Indicators of overall provision
Grade 1 Outstanding	<p>This applies to exceptional provision which is way above the norm. The standard of care is exemplary. It is highly effective at making sure that children make significant progress towards the early learning goals – given their starting points.</p> <p>Overall, the practice is worth disseminating beyond the setting.</p> <p>Inspectors make one or possible two recommendation/s to bring about minor improvement.</p>
What happens next?	
<p>When the overall judgement is grade 1:</p> <p>The next inspection will not take place for at least three years, although Ofsted will investigate any complaint received which suggests the requirements of the Early Years Foundation Stage, or any conditions of registration, are not being met.</p>	
Grade 2 Good	<p>This applies to strong provision in which children are well cared for. It is successful at making sure that children make good progress towards the early learning goals – given their starting points.</p> <p>Overall, the practice is worth reinforcing and developing.</p> <p>Inspectors will make recommendations for further improvement.</p> <p>Inspectors may raise actions to ensure that specific welfare requirements are met.</p>
What happens next?	
<p>When the overall judgement is grade 2:</p> <p>The next inspection will not take place for at least three years, although Ofsted will investigate any complaint received which suggests the requirements of the Early Years Foundation Stage, or any conditions of registration, are not being met.</p>	
Grade 3 Satisfactory	<p>This applies to provision which is sound but could be better. The standard of care is acceptable. Children's progress towards the early learning goals is steady, but slow given their starting points.</p> <p>Overall, the practice has scope for improvement.</p> <p>Inspectors will make recommendations for further improvement.</p> <p>Inspectors may raise actions to ensure that specific welfare requirements are met.</p>
What happens next?	
<p>When the overall judgement is grade 3:</p> <p>The next inspection will not take place for at least three years unless Ofsted receive a complaint which suggests the requirements of the Early Years Foundation Stage, or any conditions of registration, are not being met.</p>	

Grade 4 Inadequate Category 1	<p>This applies to provision which is weak. The standard of care is not good enough: one or more of the learning and development or general welfare requirements of the Early Years Foundation Stage are not being met. Children make too little progress towards the early learning goals – given their starting points. There has been too little improvement since the last Ofsted inspection.</p> <p>Overall the quality of the provision gives cause for concern but is likely to improve without external help and support.</p>
What happens next?	
<p>When the overall judgement is grade 4 category 1:</p> <p>Ofsted will send a letter to the registered person, setting out the actions that must be taken, and by what date, to remedy significant weaknesses in the provision. This is called a notice to improve. The registered person should let us know when the necessary action has been taken. If the required action has not been taken by the date specified in the notice or what has been done has little impact, Ofsted may take further enforcement measures.</p> <p>Ofsted may carry out an announced or unannounced visit to check that the required actions have been taken. If Ofsted finds that the required improvements have not been made, or what has been done has made little impact, they may take further enforcement measures, including suspending or cancelling registration.</p> <p>The next full inspection will take place within six to 12 months.</p>	
Grade 4 Inadequate Category 2	<p>This applies to poor provision which needs urgent attention. The standard of care and/or early education is unacceptable. One or more of the learning and development or general welfare requirements of the Early Years Foundation Stage are not being met. Children are not safeguarded and/or make little or no progress towards the early learning goals. There has been too little improvement since the last Ofsted inspection.</p> <p>Overall the quality of the provision gives cause for concern and is unlikely to improve without enforcement action being taken by Ofsted, and help and support from external agencies.</p>
What happens next?	
<p>When the overall judgement is grade 4 category 2:</p> <p>Ofsted takes enforcement action where immediate improvement is needed to the provision for children's welfare. Ofsted may issue a welfare requirements notice to the registered person which sets out which welfare requirements are not being met and what must be done to improve the provision, and by when. Failure to comply with a welfare requirements notice is an offence and may lead to prosecution. However, in rare cases where children are at risk of harm, Ofsted may suspend or cancel registration</p> <p>Where provision is poor, and learning and development requirements are not being met, then Ofsted will consider whether it is necessary to suspend or cancel registration. Otherwise, Ofsted will check that the necessary improvements have been made through regular monitoring visits.</p> <p>After each inspection, Ofsted will visit the setting at least once in every three month period, or on or about dates specified in the notification of any enforcement action Ofsted proposes to take. The purpose of these visits is to check whether the required improvements have been made and their impact on children. Ofsted will publish a letter explaining the outcome of each visit on its website. These visits will continue until the quality of the early years provision has improved and is judged to be satisfactory or better; then Ofsted will carry out a full inspection and publish the inspection report on its website. If Ofsted finds that the required improvements have not been made, or what</p>	

has been done has made little impact, Ofsted may take further enforcement measures, including suspending or cancelling registration.

Annex F. Raising meaningful actions

The purpose of actions is to bring about improvement and to enable the provider to meet the legal requirements of the Early Years Foundation Stage. For actions set at inspection to have any impact they need to be relevant to the weaknesses identified and help the provider to focus on what they need to do to improve the outcomes for children. Although actions must relate to specific legal requirements that are not met, it does not help the provider make the necessary improvements if the action merely reiterates the specific requirement that is not being met. For example:

- keep children safe when on outings.

This does not explain why children are not safe when on outings, or what specifically the provider needs to consider to keep children safe in the future.

The Statutory Framework explains that providers must comply with all the legal requirements and should have regard to the statutory guidance. The guidance gives examples of actions providers are likely to have to take in order to meet the general and specific legal requirements. Providers cannot just choose to ignore the statutory guidance or not follow it. They have to show that they have a good reason to do so where they do depart from the guidance and that they can still meet the legal requirements. If providers do not have regard for the guidance or do not have good reason not to follow it, then we must take this failure into account when carrying out our inspection and regulation work. This should also be helpful in ensuring that actions are meaningful. For example the action above could read:

- keep children safe on outings by ensuring essential records and equipment are taken, including a first aid kit.

This clearly links the action to the specific requirement and also shows how the provider can achieve the requirement by following the statutory guidance.

If the provider is not following the statutory guidance and has no other method in place, inspectors need to show how not following guidance impacts on the specific or general requirement. For example if children are not supervised appropriately and are left in the room on their own while the staff member takes a child to the toilet, this will have an impact on the general welfare requirement: Staffing arrangements must be organised to ensure safety and to meet the needs of children. An appropriate action would be:

- ensure children are safe and have their needs met (general welfare requirement) by organising staff so that children are supervised at all times (statutory guidance).

Actions for learning and development

We have fewer legal steps we can take where providers do not comply with the legal requirements for children's learning and development. There is nothing in law that prevents us from moving straight to cancellation as a first step if the concerns are

serious enough and we believe that is the best course for children's well-being. However, it is very unlikely we would move to this course of action without having given a provider an opportunity, or a number of opportunities, to improve first, even where we identify significant failures in children's learning and development.

We should set relevant actions linked to the educational programme, the early learning goals or the assessment arrangements where there are failures in learning and development. We should **not** use a welfare requirements notice because children's learning and development are inadequate. Instead we should use notices to improve and proceed to cancellation where things are not improving. If necessary we can issue further notices to improve on subsequent occasions to either reinforce further what needs to be done to put things right, or to drill down to more detail if the initial notice has led to little or no improvement. We should not seek to link the education programme to welfare requirements unless there are significant concerns arising from welfare requirements.

Where there are also concerns about welfare requirements, it may be appropriate to link major weaknesses in learning and development to the welfare requirement for organisations where specific legal requirements also cover aspects of learning and development (page 37 of the Statutory Framework).

Where we intend to serve a welfare requirements notice for compliance with welfare requirements and there are also significant weaknesses in learning and development, then we need to consider if we can link the weaknesses in learning and development to the specific welfare requirements in the organisation. We should not do this where failures in learning and development are specific rather than general. For example we can link failures in learning and development to the welfare requirement to: *plan and provide experiences which are appropriate to each child's stage of development as they progress towards the early learning goals* where:

- providers have no plans for any child; or
- the plans are generic or have insufficient detail; or
- the plans do not take sufficient account of the child's learning and development needs in respect of one or more particular learning and development requirement (which you can then specify); or
- the organisation does not provide sufficient balance between child- and adult-led activity; or
- the activities provided for the child are not age appropriate, or not sufficiently challenging; or
- the children do not enjoy the activities; or
- there is inadequate assessment to enable proper planning for development.

However we cannot include in welfare requirements notices weaknesses that arise because practitioners do not know or understand the early learning goals and as a

result children are not making progress in their learning and development. There is no benefit in telling providers to plan and provide appropriate experiences if the root cause of the problem is staff's knowledge of children's learning and development. In these situations we must raise an action specifically against the learning and development requirements in a notice to improve. For example:

- Improve staff's knowledge and understanding of the Early Years Foundation Stage so that they provide children with an educational programme that will enable them to make progress towards the early learning goals in all areas of learning.

Where weaknesses are traced to children's learning we must raise actions against the learning and development requirements – LD1, LD2 and LD3 – rather than the welfare requirements. This ensures that providers are clear about what they need to do and we have correctly linked the weakness to the relevant part of the Statutory Framework. The action may be linked to a particular developmental milestone or early learning goal so that the provider is clear what they need to do to improve outcomes for children. For example:

- develop the educational programme for children's problem solving, reasoning and numeracy by providing opportunities and practical activities that enable them to improve their understanding of addition and subtraction.

Assessment arrangements

The requirements for the assessment arrangements are given in point 2.26 (page 17) of the Statutory Framework. The legal requirements relate to the arrangements providers must make to assess each child throughout their final year and complete the Early Years Foundation Stage profile. In most cases, this is likely to be carried out in the reception class in school. We should only raise an action against the assessment arrangements when the Early Years Foundation Stage Profile is the specific area of weakness.

However where weaknesses in assessment impact on children's learning, actions should show what needs to be done to support children's progress towards the early learning goals. Where the lack of assessment means practitioners do not know children's starting points and/or what they can do, this will impact on children's progress. Inspectors may use the guidance in the Statutory Framework in sections 2.19 and 2.20 and the *look, listen and note* sections of the areas of development in the Practice Guidance for the Early Years Foundation Stage to help word any actions relating to assessment.

The action raised will depend on the impact on children's progress and whether it relates to one or more of the early learning goals. For example if the weaknesses in assessment impacted on one area of learning, an action might state:

- provide children with appropriate support and opportunities to help them develop their communication, language and literacy skills (educational

programme) by using observations and assessments to identify children's interests and achievements (guidance in 2.20) so that children are able to make the best possible progress from birth towards the early learning goals (guidance 2.19).

If the impact is on all the early learning goals and progress in general, the action might state:

- ensure all children are supported in their progress towards the early learning goals in all areas of learning (early learning goals) by making systematic observations and assessments and using these to plan relevant and motivating experiences for each child (guidance in 2.20).